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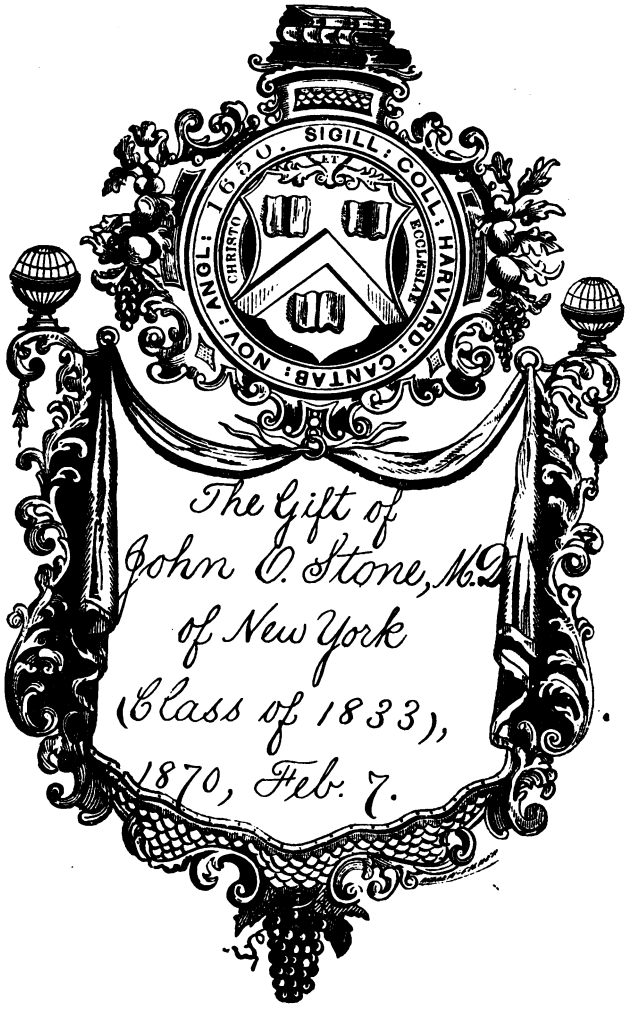

The Gift of
John O. Stone, M.D.
of New York
(Class of 1833),
1870, Feb. 7.

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New York (State) — Adjutant-General.

THE

MILITARY CODE

OF THE

STATE OF NEW YORK. (State) —

1866.

CODIFIED UNDER THE DIRECTION OF

WILLIAM IRVINE, ADJUTANT-GENERAL,

IN PURSUANCE OF SECTION 5, CHAPTER 809, LAWS OF 1866.

ALBANY:
WEED, PARSONS AND COMPANY, PRINTERS.
1866.

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(H. C. 1833.)

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Sections 5 and 6 of Chapter 809 of 1866, which is an act entitled "An act to amend an act, entitled 'An act to provide for the enrollment of the militia, the organization and discipline of the National Guard of the State of New York, and for the public defense,' passed April twenty-third, eighteen hundred and sixty-two," passed April twenty-fifth, eighteen hundred and sixty-six, read as follows, viz.:

"§ 5. All acts and parts of acts pertaining to the militia and national guard of this State, shall be arranged and codified under appropriate parts and sections, and the same when so codified shall be published under the name and title of "The Military Code of the State of New York," for the use of the national guard."

"§ 6. All acts and parts of acts inconsistent with this act are hereby repealed."

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THE

MILITARY CODE

OF THE

STATE OF NEW YORK.

PART I.

Chap. 477.*

AN ACT to provide for the enrollment of the militia, the organization and discipline of the national guard of the State of New York, and for the public defense.

Passed April 23, 1862; by a two-thirds vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

OF THE PERSONS SUBJECT TO MILITARY DUTY.

Persons subject to military duty.

SECTION 1. All able-bodied white male citizens, and persons of foreign birth, who shall have declared, on oath, their intention to become citizens under and in pursuance of the laws thereof, between the ages of eighteen and forty-five years, residing in this State,

* This act is here set forth as amended and in force in 1866.

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and not exempted by the laws of the United States, shall be subject to military duty, excepting:*

Who exempt.

1. All persons in the army or navy and volunteer force of the United States, and all ministers of the gospel.

2. Persons who have been or hereafter shall be regularly and honorably discharged from the army or navy of the United States, in consequence of the performance of military duty, in pursuance of any law of this State,* and such firemen as are now exempted by law.

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*GENERAL HEAD-QUARTERS—STATE OF NEW YORK.

GENERAL ORDERS, No. 17. ADJUTANT-GENERAL'S OFFICE, ALBANY, *June* 15, 1865.

The following opinion of Brigadier-General ALEXANDER W. HARVEY, Judge-Advocate-General of the State, is published for the information of all concerned:

STATE OF NEW YORK, JUDGE-ADVOCATE-GENERAL'S DEPARTMENT, BUFFALO, *January* 30, 1865.

To BRIG.-GEN. IRVINE, *Adjutant-General of the State of New York.*

Dear Sir—My opinion has been asked relative to the following proposition:

Are those citizens subject to the performance of military duty in the National Guard of this State, who have furnished an acceptable substitute to serve in the National forces of the United States, or paid the commutation fee and received the certificates of exemption, which are provided for by the act of Congress, entitled "An act for enrolling and calling out the National forces, and for other purposes," passed March 3, 1863, and of the acts amendatory thereof, which have been subsequently enacted.

The militia law of this State, entitled "An act to provide for the enrollment of the militia, the organization and discipline of the National Guard of the State of New York, and for the public defense," was passed on the 23d day of April, 1862.

The first section of that act provides that "All able-bodied white male "citizens, between the ages of eighteen and forty-five years, residing in "this State, *and not exempted by the laws of the United States*, shall be subject "to military duty, excepting: 1st. All persons in the army or navy, or "volunteer forces of the United States," etc.

The claims to be exempted from the duties prescribed by this law are understood to be based on some provision of the said first section, as above quoted, and mainly on the provision in the first paragraph, which I have italicized, reading "and not exempted by the laws of the United States."

If we supply the words understood to be included in the meaning intended to be expressed by the Legislature, the first paragraph would undoubtedly read as follows:

All able-bodied white male citizens, between the ages of eighteen and forty-five years, residing in this State, and not exempted *from the performance of military duty* by the laws of the United States, shall be subject to military duty, etc.

At the time of the passage of the militia law, those laws had not been passed by Congress, under which certain citizens now claim exemption from militia duty. The first of that series of enactments was approved March 3, 1863. Who then did the Legislature intend to exempt from the performance of military duty to this State? On examining the statutes

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3. The commissioned officers who shall have served as such in the militia of this State, or in any one of the United States, for the space of seven years; but no officer shall be so exempt unless by his resignation after such term of service duly accepted, or in some other lawful manner he shall have been honorably discharged.

4. Every non-commissioned officer, musician, and private, of every uniform company or troop raised, or hereafter to be raised, who has or shall hereafter uniform himself according to the provisions of any law of this State, and who shall have performed ser-

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of the United States, we find that at an early date Congress deemed it necessary to exempt several classes of persons from the performance of any kind of militia duty, for the purpose of preventing embarrassment in the administration of the Government. By the second section of an act of Congress, entitled "An act more effectually to provide for the National defense, by establishing a uniform militia throughout the United States," approved May 8, 1792, the Vice-President of the United States, the judicial and executive officers of the Government of the United States, the members of both houses of Congress, custom house officers and their clerks, post-officers and mail carriers, ferrymen on post-roads, pilots, and various other persons, were exempted from the performance of any military duty, and by laws subsequently passed by Congress, artificers and workmen employed in the armories, post-masters, post-riders, drivers of mail stages, and other classes of citizens, were allowed the same exemption.

The first paragraph of the militia law is so framed as to avoid any conflict between the National and State authorities, and to exempt expressly from the liability to perform military duty in the National Guard of the State of New York, those persons who had been declared by federal legislation to be wholly exempted from the performance of all military duties. The word "exempted" is used in the *past sense* in the paragraph, and it seems to me was not intended to have a prospective meaning. If it do not have a prospective meaning, then those citizens who claim exemptions from duty under the law by reason of having furnished substitutes to serve in the army of the United States, or who have paid commutation, pursuant to federal legislation, of a date subsequent to the passage of the militia law, cannot have been intended to be included in the list of those "exempted by the laws of the United States."

But even if it be contended and conceded, that the clause under examination is prospective in its application, there can then be no valid lawful claim to exemption on behalf of those citizens.

The militia law of this State was evidently prepared with much care, and, as we have seen, the first paragraph of the first section exempts from duty under its provisions various classes of citizens of this State, who had theretofore been, by the laws of the United States, expressly and wholly excused from the performance of military duty, either to the Nation or to the State. On examination we observe that these unqualified exemptions extend to those persons whose services seemed to be indispensable to enable the officers of the United States to administer the affairs of the general government successfully.

If it be assumed that the paragraph in question is to bear a prospective meaning, it can have no broader or more extensive application to future cases of exemption, than to those which plainly and explicitly come within

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vice in such company or troop for the space of seven years from the time of his enrollment therein, shall be exempt from military duty, except in cases of war, insurrection or invasion. (*As amended by chap.* 425 *of* 1863, § 1, *and by chap.* 612 *of* 1865.)

Removal out of beat or disbandment of uniformed company.

§ 2. If any member of such company or troop, who shall have been regularly uniformed and equipped, shall, upon his removal out of the beat of such company or troop, or upon the disbandment thereof, enlist into any other uniform company or troop, and

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its signification as enunciated by the statutes in force at the time of its passage. Those statutes sought expressly to exempt certain persons from all military duty, and it is therefore pertinent to ask, whether there are any provisions in the laws under which the present claims for exemption are made, which are intended to exempt such claimants from all military duty.

The laws of Congress, under which such exemptions are claimed, are the following: The act approved March 3, 1863, hereinbefore referred to, the act amending the same, approved February 24, 1864, and the act approved July 24, 1864.

The scope and object of the acts are fully declared, in the preamble and first section of the act of March 3, 1863. The preamble recites, in substance, that there exists in the United States an insurrection and rebellion against its authority, and that a military force is indispensable to suppress such insurrection and rebellion; therefore, certain persons named in the first section are declared to constitute the national forces, liable to perform military duty in the service of the United States, when called out for that purpose.

Here, then, is a law enacted for the purpose of raising and organizing a "National Force," to be used for the purpose of suppressing the rebellion, and maintaining the authority and supremacy of the Constitution and laws of the United States.

By the thirteenth section of that act, any person who is subject to military duty under the act, may, if drafted, furnish "an acceptable substitute to take his place in the draft," or he may pay a certain sum for the procuration of a substitute; and, thereupon, such person so furnishing the substitute, or paying the money, shall be discharged from further liability under that draft; and by the seventeenth section, it is provided that the certificate of the drafted person "shall exempt him from military duty for the time during which he was drafted;" that is, from his military duty under that law of the United States.

The act last aforesaid was modified and amended by an act of Congress, approved February 24, 1864, and the privileges awarded by sections four and five of that act to persons furnishing substitutes, either before or after draft, extend only to an exemption from draft during the time for which such substitute shall not be liable to draft; and the act does not anywhere declare that such persons shall be exempted from all military duty. Such persons as avail themselves of the privileges provided by those acts of Congress, gain certain exemptions from duties under the same acts. It was not the intention of Congress to pass a law which should exempt one who was acknowledged as a military subject, from all liability to perform any military duties; and the true intent of the first clause of the militia law of this State, is to exempt from its operation such only as had been exempted (or should be thereafter exempted) by Congress from the performance of any military duties whatever.

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uniform and equip himself therefor, and serve in the same, whenever the whole time of his service in such companies or troops, computed together, shall amount to seven years, he shall be exempt from military duty in like manner as if he had served for the whole period in the company or troop in which he was first enrolled.

Time, how computed

§ 3. Idiots, lunatics, paupers, habitual drunkards, and persons convicted of infamous crimes, shall not be subject to military duty.

Who not subject to military duty.

Those persons who received certificates of exemption under the acts of Congress last referred to, were secured the benefits of a limited exemption from draft into the "National force," which was organized for the purpose of subduing the rebellion against the general government, and Congress did not, and neither did it intend to confer upon them an exemption from all military service, either to the Nation or to the State, and it is not believed that it would be seriously contended by the holder of such certificate of a Provost-Marshal, which upon its face only exempts him from liability to draft *under the aforesaid acts of Congress*, that he would not be liable to perform military duty under a law which should be enacted for the purpose of organizing an army to prosecute a war against a foreign nation.

I am of the opinion, therefore, that those persons who have furnished substitutes to serve in the national forces of the United States, or who have paid commutation for the procuration of substitutes, are not exempted from military duty in the National Guard of this State, by reason of anything contained in the first paragraph of the first section of the militia law, and I fail to see how any plausible claim for exemption can be made under any other provision thereof.

The first subdivision, excepting from military duty "all persons in the army or navy, or volunteer forces of the United States," very evidently refers only to those persons actually in the service, and constituting a part of such "forces." Such persons should not be subjected to the fines and penalties prescribed for delinquents by the militia law, but the principal who holds a certificate of exemption from draft under the law of Congress of March 3d, 1863, or of its amendments, and who enjoys the protection of the State of New York, having never been exempted from his liability to render it military service when called upon, constitutes no part of such forces, and he owes to the State of New York his allegiance and his military service.

ALEX. W. HARVEY,
Judge-Adv.-Gen. State of New York.

By order of the Commander-in-Chief,

WILLIAM IRVINE,
Adjutant-General.

The following opinion of the Attorney-General was given in answer to an inquiry of Col. W. H. SHUMWAY, commanding Eighty-eighth Regiment National Guard:

STATE OF NEW YORK.
OFFICE OF THE ATTORNEY-GENERAL,
ALBANY, *October*, 16, 1865.

COLONEL W. H. SHUMWAY:

I have examined with care the question you present, and now give you my opinion upon it.

The disability contemplated by section 146 of the Militia Law of 1862, to exempt from further liability to military duty, evidently must have

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OF THE ENROLLMENT OF PERSONS SUBJECT TO MILITARY DUTY.

Enrollment of ununiformed militia.

§ 4. Under the direction and superintendence of the commander-in-chief, all persons liable to military duty within this State, who are not already members of the organized militia thereof, shall, immediately upon the passage of this act, and from time to time thereafter, as the commander-in-chief shall deem necessary, but as often as once in every two years,

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occurred in the service, and is not to be regarded as among the conditions of original exemption.

Subdivision five of section one of the law exempts from military duty "persons who have been or hereafter shall be regularly and honorably "discharged from the army or navy of the United States, in consequence "of the performance of military duty, in pursuance of any law of this "State, and such fireman as are now exempted by law."

As to this class of exempts, it is to be observed that three conditions must unite before the persons having performed military duty can be held exempted.

First. They must have been regularly and honorably discharged from the army or navy of the United States.

Second. Such discharge must have been in consequence of the performance of military duty.

Third. This duty must have been in pursuance of a law of this State.

If any one of these conditions is wanting, the person is not an exempt; and if they all unite, no other consideration *can* defeat his privilege.

A discharge from the army or navy of the United States because of "*physical disability*," does not fulfill the condition of a discharge, "*in consequence of the performance of military duty.*"

A "muster out" is in truth a "discharge," and a regular and honorable one.

I think that in connection with the terms "army" or "navy," previously occurring in subdivision five of section one, the word "military" therein used, is to be beneficially enlarged to a nautical sense also. Then, the soldier or sailor "honorably" or "regularly" discharged from either the army or navy, if a citizen, before he can claim an exemption from military duty to the State, must show that the military or naval duty which he performed, and in consequence of the performance of which he was thus discharged, was "in pursuance of a law of this State."

Now, the men who volunteered or were drafted into the United States service during the war, went first into organizations of State volunteer regiments under State officers. Some law of our Legislature recognized every requisition by the President on the State for its quota of troops, and provided for raising it. The regiments so raised, organized and officered, were thence and thereafter mustered, in pursuance of that law, into the United States service under general officers of Federal appointment. Sometimes the United States took into the naval service those volunteers or drafted men who preferred it, and allowed them on the State quota. But all, whether volunteers or drafted men, in either the United States army or navy, were *thus* therein "in pursuance of a law of this State." You will perceive, therefore, that, plainly and easily, these facts put subdivision five of section one of the law of 1862 in full operation.

Now, whether these persons so in possession of these three conditions, had been previously, or were subsequently enrolled in the State militia, is of no consequence. In the one case, the subsequent law of exemption

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be enrolled by the captain or commandant of the company district within whose bounds such person shall reside, or if there be no such captain or commandant, then by an officer to be detailed by the commanding officer of the regiment in which such company district is situated, or to be appointed by the commander-in-chief. Such enrollment shall distinctly specify the names and residences of the persons enrolled, and shall also divide the same into two

Enrollment what to specify.

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absolved them from military duty, and in the other, their subsequent enrollment was a nullity.

My conclusion, therefore, is, that a person, whether or not enrolled in the State Militia, who shall have, under any of the requisitions of the President of the United States upon the State for troops during the war, been mustered into the army or navy and have therein performed duty, whether military or naval, and in consequence of the performance of which duty, whether for one, two, or more months or years, shall have been regularly and honorably discharged from the service, is under subdivision five of section one of the Militia Law of 1862 (re-enacted in the law of 1863, as subdivision two of section one), exempt from the performance of further military duty.

Yours respectfully,
JOHN COCHRANE,
Attorney-General.

GENERAL HEAD-QUARTERS—STATE OF NEW YORK.

GENERAL ORDERS, No. 25. ADJUTANT-GENERAL'S OFFICE, ALBANY, *Sept.* 28, 1865.

The following opinion of Brigadier-General ALEXANDER W. HARVEY, Judge-Advocate-General of the State, is published for the information of all concerned:

STATE OF NEW YORK,
JUDGE-ADVOCATE-GENERAL'S DEPARTMENT, BUFFALO, *September* 12, 1865.

To BRIG.-GENERAL WILLIAM IRVINE,
Adjutant-General State of New York:

General—I have your favor of the 31st ult., in which my opinion is requested on the question, whether those persons who have served in the Army of the United States, and received an honorable discharge therefrom, are exempted from the performance of militia duty in this State, under the provisions of the militia law.

Such claims to exemption are based on subdivision 2, section 1 of the Militia Act of this State, as amended in 1863, which exempts from military duty "persons who have been or hereafter shall be regularly and honorably discharged from the army or navy of the United States, in consequence of the performance of military duty, in pursuance of any law of this State, and such firemen as are now exempt by law."

It is of recent date that this provision has been engrafted on the militia law of this State.

In the law which was passed May 13, 1847, and in some of the laws for organizing the State militia, which were passed prior to that time, it is provided that there shall be exempted from liability to military duty, those "persons, who have been or shall hereafter be regularly discharged, in consequence of the performance of military duty, in pursuance of any law of this State, and such firemen as are now exempted by law."

The statutory exemption last above recited was first passed May 13, 1846, and was re-enacted in the law of May 13, 1847.

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classes, the persons between the ages of eighteen and thirty years to constitute one class, and the persons between the ages of thirty and forty-five years to constitute the other class; four copies of such enrollment shall be prepared by the officer making the same, one of which, after the same shall have been corrected as hereinafter provided, shall be retained by him, another shall be filed in the office of the town or city clerk in which such company district is situ-

Four copies to be made.

On examination of the various militia laws, which have been in force in this State prior to that time, it will appear that different provisions had been made, at different times, relative to the number of years' service in the militia of this State, or in the militia of any other State, which should exempt a person from further service, and it was doubtless the intent of the provision last above quoted, that each and all of those persons who had performed, or should perform, military service in this or any other State, the number of years which would, by the militia law of this State, in force at the time of service, entitle them to future exemption therefrom, should have the benefit of such exemption, notwithstanding any subsequent change of the law.

The subdivision of section one, under which the present question is raised, is a modification of that clause, and first became engrafted on the militia law of this State in 1854 (see Laws of 1854, ch. 398), and has been since continued, and is a part of the present law, having been last enacted in 1863, in the exact language of the same subdivision contained in all the laws on that subject since 1854.

Thus it will be seen that this clause was not originally enacted with reference to those persons who have been in the service of the United States in the volunteer force during the late war to suppress insurrection, and it is important to determine whether such persons have been members of "the Army or Navy of the United States" within the meaning of that statute.

The only authority competent to constitute an "Army of the United States," or to define of what such army shall consist, is the United States Congress. The laws of the State of New York which refer to organizations constituted by the laws of another State or jurisdiction, must find their definition in such foreign laws.

At an early period, Congress passed laws for a military establishment of the United States, constituting, with the various amendments to those laws, the "Army of the United States."

The first of the series was enacted at the first session of the first Congress, being chapter 25 of the Laws of 1789, which was repealed by chapter 10 of the Laws of 1790, and this in its turn was repealed by chapter 44 of the Laws of 1795. Another act was approved March 3, 1799, providing for the appointment of a commander of the "Army of the United States," and of various other officers in the same army. On the 10th day of April, 1806, another act was approved establishing certain rules and regulations for the "Army of the United States."

Section 14 of chapter 13 of the Laws of 1821, provides "that the system of general regulations of the army, compiled by Major-General Scott, shall be and the same is hereby approved, and adopted for the government of the Army of the United States, and of the militia, when in the service of the United States." Chapter 108 of the Laws of 1812, is "An act for the more perfect organization of the Army of the United States," and the first section provides "that the infantry of the Army of the United States shall consist of twenty-five regiments," &c. By chapter 7 of the Laws of 1814,

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ated, if there be such office, another shall be filed in the office of the clerk of the county where such district is situated, and the fourth shall be filed in the adjutant-general's office; the officer making such enrollment may, with the approval of the commander-in-chief, appoint one or more of his non-commissioned officers, or other proper persons, to assist in making said enrollment and copying said rolls; the persons making such enrollment shall be compensated

Compensation of person making enrollment. Service.

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certain bounties were provided to be paid to recruits in the "Army of the United States," having reference only to the regular army, and not to the militia or volunteer force. After the recognition of a state of war between the United States and Mexico, Congress passed an act authorizing an increase of the rank and file of the "Army of the United States (see chapter 17 of the Laws of 1846), and by chapter 16 of the Laws of the same year, the President was authorized to call for and accept of the services of fifty thousand volunteers, and by section 4 it was provided that they should be placed on the same footing, except as to clothing and pay, as similar corps in the Army of the United States, and by section 9, that they should have the same organization, pay and allowances, as the Army of the United States.

Various other acts relating to the Army of the United States, as entirely a distinct organization from the militia or volunteer forces, when in the services of the United States, have been passed, but it is unnecessary to refer to other than the act of July 29, 1861, chapter 24, providing for an increase of the Army of the United States, and for the appointment, under section 3, of four major-generals, and other officers to be added to the same army.

An examination of the above named statutes of the United States, and of other laws, which have been enacted by Congress on the subject of the military establishment of the United States, will show that the organization, known as the "Army of the United States," is what is popularly called the regular army.

Before and during the war with Great Britain in 1812, and afterwards, during the Mexican war, certain laws were passed by Congress authorizing the President to call out the militia of the several States, and to accept volunteers into the service of the United States for the purpose of the war. A brief examination of these will show further that such forces were not then regarded as of the Army of the United States.

By chapter 29 of the Laws of 1794, the President was authorized to require the different States to organize, arm and equip a militia force, and that during their service they should have, besides their pay and allowances, which should be the same as the troops in the military establishment of the United States, a specified sum for clothing.

Section 4 of chapter 36 of the Laws of 1795, provides "that the militia employed in the service of the United States, shall be subject to the same rules and articles of war as the troops of the United States."

By chapter 21 of the Laws of 1812, the President was authorized to accept companies of volunteers, to the number of fifty thousand, whose officers were to be appointed in the manner prescribed by law in the several States where they should belong, and when called into the United States service should be entitled to receive certain pay and emoluments, the same as the United States troops, and section 2 of chapter 138 of the Laws of the same year, provides that certain officers of such corps may be appointed conformably to the military establishment of the United States, who shall be

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at the rate of one dollar and fifty cents per day for every day necessarily spent in making and copying the same; the number of days to be certified by the commandant of the regiment, and not to exceed ten, and the amount of such compensation to be paid by the comptroller upon production of such certificate, together with the certificates of the town clerk, county clerk and adjutant-general, that such rolls have been duly filed in their offices. Such rolls shall be so filed

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entitled to the same pay and emoluments as officers of a similar grade in the Army of the United States.

Without passing more into detail, it is evident that the history of congressional legislation prior to the late rebellion, shows that the appellation of "Army of the United States" was not applicable to militia of the States, or to volunteer corps organized in the States, and accepted into the service of the United States. Let us now examine the acts of Congress, under which those persons now claiming exemption from militia duty to the State, have enlisted and performed military service.

The first is the act of July 22, 1861, entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," which provides that the President may accept five hundred thousand volunteers for the purposes therein named, the regimental and company officers to be appointed by the governors of the States, and the force to be subject to the rules and regulations governing the Army of the United States. The law designates the force as a volunteer force, and is not designed to increase the Army of the United States. An amendment or addition was made to this law July 25, 1861, authorizing the acceptance of five hundred thousand more volunteers, as authorized by the last named law, and providing that "they shall be subject to the rules and articles of war, and shall be upon the footing in all respects, with similar corps of the United States Army," thus maintaining the distinction between the organizations in everything except in their government and emoluments, while in actual service.

By chapter 25 of the Laws of 1861, the President was authorized to call forth the militia of the various States, which, while in actual service, should be "subject to the same rules and articles of war as the troops of the United States," and should, during their time of service, be "entitled to the same pay, rations and allowances, for clothing, as are or may be established by law, for the Army of the United States." And on the day of the approval of that law, another act was approved, providing for the increase of the Army of the United States, and for the appointment of certain officers of the regular army, and providing that officers of the regular army might be assigned to duty in the volunteer corps, and be entitled to hold rank in each. Afterwards, and on the 3d day of August, 1861, another act was approved, having exclusive reference to the regular army as the "United States Army," and providing for its "better organization." At this period there were a large number of volunteers in the service of the United States. In chapters 100 and 101 of the Laws of 1862, the distinctions between the army and volunteer force are kept up, as also in the act of March 3, 1863, for enrolling and calling out the national forces, and in the acts supplementary thereto, and amendatory thereof.

In none of these acts are those volunteers in the service of the United States designated as members of the Army of the United States, which is the military establishment of the United States. In the one instance the regiment is raised under the authority of the State, and the officers of the regiment receive their commissions from the State; in the other, the

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on or before the first day of July in each year in which such enrollment shall be made. The officer or person making such enrollment shall, at the time of making the same, serve upon each person enrolled a notice, by delivering the same to him personally, or by leaving it with some person of suitable age and discretion at his place of residence, that he is enrolled as liable to military duty, and that if he claims that he is for any reason exempt from military duty, he must, on or before the fifteenth day of August then next ensuing, file a written statement of such exemption,

Service of notice of enrollment.

Persons claiming exemption.

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authorization emanates from the general government, and the commissions are issued by it.

This also is the view adopted by the Legislature of this State in the statutes relating to the militia.

In the law of 1854, chapter 393, the first exception of persons from military duty was of "all persons in the army or navy of the United States," and that exception remained a part of the law until 1862, when it was modified by interpolating the words "or volunteer force" after the word "Navy." And in this form the subdivision was substantially re-enacted in 1863, making exempt from military duty all persons in the army or navy and volunteer forces of the United States. In case the "volunteer forces," which had but recently gone into the service of the United States, came within the class of persons named as "in the Army or Navy of the United States," there would have been no necessity for the amendment. It was the first time since the original enactment of the subdivision that any volunteer forces from this State were in the service of the United States, and the clause was modified to extend the benefits of the exemption during the time of actual service to those who now claim the exemption under the next subdivision. It cannot be supposed that the Legislature which modified the first subdivision of section one of this law, would not also have modified the following subdivision by inserting the same words, provided it had been desired to exempt from militia duty those persons who had been regularly and honorably discharged from the volunteer forces of the United States.

During the time of actual absence from this State, it would have been improper to subject those persons in the service of the general government to the fines and penalties of our militia law, but the Legislature did not deem that such exemption should extend beyond the period of actual service, which might be but for a brief time. The citizen owes his allegiance and support to the State, as also to the nation, in consideration of his being protected in his rights of person and property, and to entitle him to any exemption from such support, he must bring himself clearly within its limits. I am, for the foregoing reasons, of the opinion that persons who have been in the service of the United States in the militia or volunteer forces, during the late rebellion, do not come within the class of persons intended to be exempted by subdivision 2 of section 1, of the militia laws of this State as enacted in 1863.

I am, general, very respectfully,
Your obedient servant,
ALEX. W. HARVEY,
Judge-Advocate-General.

By order of the Commander-in-Chief,
WILLIAM IRVINE,
Adjutant-General.

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verified by affidavit, in the office of the town or city clerk, to be designated in said notice; blank notices for such purpose shall be provided to such enrolling officer by the adjutant-general. (*As amended by chap. 425 of 1863, § 2.*)

Access to assessment rolls and poll lists to be allowed to persons making enrollment.

§ 5. For the purpose of preparing such enrollment, the assessors in each city, village, town or ward of this State, shall allow captains or commandants of companies or other officers appointed for that purpose, as above provided, at all proper times to examine their assessment rolls and to take copies thereof, and the clerks of all towns and cities shall in like manner, at all proper times, allow the said commandant or other officer to examine and copy the poll lists on file in their offices.

Tavern keepers, &c., to give information.

§ 6. All tavern keepers, keepers of boarding houses, persons having boarders in their families, and any master and mistress of any dwelling house, shall, upon the application of any officer authorized to make such enrollment, give information of the names of all persons residing or lodging in such house, liable to be enrolled, and all other proper information concerning such persons as such officer may demand.

Penalty.

§ 7. If any person of whom information is required by any such officer, in order to enable him to comply with the provisions of this act, shall refuse to give such information, or shall give false information, he shall forfeit and pay ten dollars for each item of information demanded of him by any such officer and falsely stated, and the like sum for each individual name that may be refused, concealed or falsely stated; and every person who shall refuse to give his own name and proper information, when applied to by any such officer, or shall give a false name or information, shall forfeit and pay a like sum; such penalties to be recovered in any court of competent jurisdiction, in the name of the people of the State of New York; and it is hereby made the duty of such officer to report the names of all persons who

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may incur any penalty in this section prescribed, to the commandant of the regimental district in which they reside.

Notice of completion of rolls to be published; what to contain.

§ 8. Whenever an enrollment shall be made, as provided in this act, the county clerk of each county shall cause to be published, once a week, for four weeks previous to the first day of August, in a newspaper published in such county, a notice that such rolls have been completed and filed as aforesaid, which notice shall also specify that any person who claims that he is, for any reason, exempt from military duty, shall, on or before the fifteenth day of August then next ensuing, file a written statement of such exemption, verified by affidavit in the office of said town or city clerk, or of the county clerk, if there be no such town or city clerk; and the publication of such notice shall be a sufficient notice of such enrollment of all persons named therein; such roll shall be made in the form prescribed by the commander-in-chief, and the adjutant-general shall furnish to all commandants of companies suitable blanks and instructions therefor. (*As amended by* § 1, *chap.* 809, *of* 1866.)

Roll not to include certain officers, &c.

§ 9. Such commandant shall not include in said enrollment the names of any officers nor members of the uniformed militia of this State, nor of the officers or members of any fire company, and the foreman of every fire company in any city, village or town of this State, shall, before the fifteenth day of May in each year, file in the office of the town or city clerk, a list containing the names of all persons belonging to their respective companies, which list shall show the town or ward in which each member of such company resides.

Duty of foreman of fire company.

Persons claiming to be exempt to file statement.

§ 10. All persons claiming exemptions shall file a written statement of the same, verified by affidavit, in the office of the town or city clerk, or of the county clerk, in case there be no such town or city clerk, on or before the fifteenth day of August, in default of

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which such person shall lose the benefit of such exemption, except such as are especially exempt by act of congress.

Officers making enrollment to mark the word "exempt" before the name of persons claiming, &c.

§ 11. The captain, commandant, or other officer making such enrollment, shall thereupon, if such person be exempt, according to law, mark the word "exempt" opposite the name of each person presenting such exemption; if such exemption be permanent, the name of such person shall not be included in any subsequent enrollment. If any person shall swear falsely in such affidavit, he shall be guilty of perjury.

Perjury.

Reserved militia.

§ 12. The persons thus enrolled shall form the reserve militia of the State of New York; those between the ages of eighteen and thirty years shall constitute the reserve of the first class, and those between the ages of thirty and forty-five years shall constitute the reserve of the second class.

Duties of reserved militia.

*§ 13. The reserve militia of the first and second classes, except such as shall volunteer or be drafted

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*Before the amendment of 1866, original sections 13, 14 and 15, of chapter 377 of the Laws of 1862, entitled "An act to provide for the enrollment of the militia, the organization and discipline of the national guard of the State of New York, and for the public defense," were modified by sections 7, 8 and 9, of chapter 425 of the Laws of 1863, which last mentioned sections are as follows, to wit:

Fines not paid remitted.

§ 7. The fines of all persons who have been enrolled under the act entitled "An act to provide for the enrollment of the militia, the organization and discipline of the national guard of the State of New York, and for the public defense," passed April twenty-third, eighteen hundred and sixty-two, and who have neglected to attend the parade on the first Monday of September last, and which fines have not been paid at the time of the passage of this act, are hereby remitted and released, and the warrants for the collection of the same, now in the hands of the collectors or receivers of taxes, may be returned uncollected as to the balance remaining unpaid. All moneys in the hands of collectors

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as members of the national guard, as hereinafter provided, shall assemble in their several company districts, armed and equipped as provided by law, for parade and inspection, on the first Monday in September in each year, at such hour and place as the captain or commandant shall designate in orders, to be posted in three public places in said company district for ten days, and shall be under the orders of the captain or commandant of such district; and such captain or commandant shall make a register of all such as shall attend at such parade armed and equipped as aforesaid, to which shall be annexed a

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and receivers of taxes, at the time of the passage of this act, which shall have been collected in pursuance of said act, shall be paid to the several county treasurers in the county where said collectors and receivers reside. The several county treasurers shall pay to the comptroller on his order as provided in section fifteen of said act, all moneys that may have been received by said county treasurer, under the provisions of this act.

Disposition of moneys collected.

§ 8. All moneys paid to the comptroller, under the provisions of the said act, shall be credited to the several counties from which the same have been paid, and deducted by the comptroller from the several amounts required to be collected in said counties, for the State tax of the year commencing on the first of October next; and that the treasurer of each county credit to each town in his county the sum of money actually collected and paid in to the treasurer. And the supervisors are required, at their annual meeting next after the passage of this act, in making the assessments required by law, to credit each town in their county with the sum actually collected and paid in to the county treasurer of the county and credited as aforesaid.

Moneys paid to comptroller to be credited to the proper counties.

Duty of treasurers and supervisors.

§ 9. The reserve militia shall not be required to assemble for parade and inspection on the first Monday of September next, as provided by section thirteen of said act; and the provisions of said act, so far as relates to the fines for neglect to attend the parade provided in said law for that day, and the collection of the same, are suspended for the year eighteen hundred and sixty-three.

Reserve militia not to parade in September, 1863.

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list of delinquents, containing the names of all such persons as are on the said enrollment, not marked "exempt" thereon, and who did not attend at such parade, and shall file a copy of the same, on or before the first day of October next following the time of such parade, in the office of the adjutant-general and of the county clerk, and shall also file a list of such delinquents with the board of supervisors and with the county treasurer, on or before the said first day of October. (*As amended by* § 1, *ch.* 809 *of* 1866.)

Fine for not attending parade.

§ 14. All persons duly enrolled, as aforesaid, who shall neglect to attend said parade, shall be subject to a fine of one dollar, which shall be collected by the collector or receiver of taxes of the town or city in which the company district is situated; and the supervisors of the several counties, at their annual meetings, are authorized and directed to annex a list of the several delinquents, with the fines set opposite their respective names, to the assessment rolls of the several towns and wards, and the warrants for the collection of the same shall direct the collectors and receivers of taxes to collect the amount from every person appearing by the said assessment roll liable to pay the same, in the same manner as taxes are collected, the same to be paid to the county treasurer; and when the name of any person between the ages of eighteen and twenty-one years, shall appear on the said roll, liable to pay said fine, the said warrant shall direct the collector to collect the same of the father, master or guardian with whom such person shall reside, or out of any property such minor may have in the city, village, town or ward, and such collector shall proceed and execute such warrant; and no property now exempt from execution shall be exempt from the payment of such fines. (*As amended by* § 1, *chap.* 809 *of* 1866.)

How collected and paid.

County treasurer to pay to comptroller one dollar for each person en-

§ 15. The county treasurer of each county shall, on or before the fifteenth day of March in each year, pay to the comptroller, upon his order, the sum of

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one dollar for each person named on said list of delinquents; and in case he shall not, on the presentation of such draft, have received all or any of the money directed by this act to be collected and paid to him, he is hereby authorized and directed to borrow an amount sufficient to pay said draft upon the credit of the county, and the sum borrowed shall be a county charge, to be assessed by the board of supervisors of said county, at their next annual meeting, upon the taxable property of said county, and collected as other county assessments shall be assessed and collected; and it shall be the duty of the county treasurers of the several counties, and the commanding officers of the several regiments, to report and certify under oath to the board of supervisors, at their annual meetings, the deficiencies arising from the non-collection of military fines within their respective counties and regimental districts. (*As amended by* § 1, *chap.* 809 *of* 1866.)

rolled who neglects to parade, and to borrow money for that purpose.

§ 16. The provisions of article first, title three, chapter thirteen, of part first of the Revised Statutes, shall apply to this act so far as the same are applicable.

Revised Statutes to apply.

§ 17. The bond required to be executed by the collector, receiver of taxes and county treasurer shall apply to any moneys required to be collected for military purposes by this act.

Bond.

§ 18. Any deficiency arising from the non-collection of said fines shall be a county charge, and shall be raised as aforesaid by the supervisors of said county by taxation on the real and personal estates therein in the manner now provided by law.

Deficiencies to be a county charge.

§ 19. If any collector or receiver of taxes, county treasurer, town, county, or city clerk, or supervisor, or any other civil or military officer, charged with any duty under the provisions of this act, shall refuse or neglect to perform any of the duties required of him by this act, he shall forfeit and pay the sum of not less than twenty-five nor more than one hundred

Collectors, &c., refusing to perform certain duties to be fined.

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dollars for each and every offense, to be recovered in the name of the people of the State of New York, and if any of such officers shall willfully neglect or refuse to perform such duties as are hereby required, he shall be deemed guilty of a misdemeanor, and it shall be the duty of the district attorney of any county within which such delinquent offender resides, upon the complaint of the commanding officer of the regiment, to prosecute the same. Any penalty incurred and paid or collected under this section shall be paid into the treasury of the county and belong to the military fund of such regiment.

Penalties, how paid over, &c.

OF THE GENERAL ORGANIZATION OF THE MILITIA, AND THE ORGANIZATION OF THE NATIONAL GUARD OF THE STATE OF NEW YORK.

Of Organization.

Duties of commander-in-chief.

§ 20. The commander-in-chief of the militia of this State shall organize and arrange the same, and the districts therefor, into divisions, brigades, regiments, battalions, squadrons, troops, batteries and companies, and cause the same to be numbered as nearly in conformity to the laws of the United States as local circumstances and the public convenience may permit, and may alter, divide, annex or consolidate the same and the districts thereof, and dismiss supernumerary officers, who were made such by an excess of officers of equal grade being thrown into any division, brigade, regimental or company district. The present divisions, brigades, regiments, battalions, troops, squadrons, batteries and companies, and the districts thereof, shall remain as now established by law, subject to the power of the commander-in-chief, to alter, divide, annex or consolidate the same as above set forth. Regimental districts, except in cities, shall conform, as nearly as convenient, to the assembly districts of this State.

Regimental districts.

Organized militia, how known and

§ 21. The organized militia of the State shall be known as the "National Guard of the State of New

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York," and shall consist of eight divisions, and such number of brigades, regiments, companies and battalions, and such batteries, troops or squadrons as the commander-in-chief shall determine and designate, provided that the aggregate organized force of the national guard, in time of peace, to be fully armed, equipped and uniformed, shall not exceed the number of fifty thousand non-commissioned officers and privates, but the commander-in-chief shall have power, in cases of war or insurrection, or imminent danger thereof, to make further drafts of the militia, and to form new regiments, battalions, batteries and troops, and to organize the same, as the exigencies of the service shall require. (*As amended by* § 1, *chap.* 809 *of* 1866.)

of what to consist.

Drafts.

§ 22. The national guard shall include the present uniformed militia of this State, and such volunteers as shall enroll themselves therein in the several districts of this State, and such persons as may be drafted therein, as hereinafter provided, and shall be organized, and shall serve as engineers, artillery, light artillery, cavalry, infantry and rifles, as the commander-in-chief shall direct.

National guard, what to include.

§ 23. The commander-in-chief is hereby authorized and empowered, so soon as may be convenient after the passage of this act, to appoint and commission the brigade, regimental and company officers, in the first instance, necessary to complete the organization of all military districts hereafter to be created, and to fill all vacancies necessary for the complete organization of all military districts now created in this State, but not sufficiently organized for an election. All officers superseded by such appointment shall become supernumerary officers.

Commissioned officers, how appointed.

Supernumerary officers.

§ 24. The commandant of each regimental district, for the purpose of organization, is hereby authorized and required to appoint the non-commissioned officers required by law for each company in his district, and to issue to such non-commissioned officers the proper

Non-commissioned officers, how appointed.

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warrants of their appointment, until the organization of such regiment shall be complete.

Organization, discipline, &c.

§ 25. The organization of the national guard shall conform to the provisions of the laws of the United States, and their system of discipline and exercise shall conform as nearly as may be to that of the army of the United States, as it now is, or may hereafter be prescribed by congress.

Duties of company officers to endeavor to fill their respective companies.

§ 26. Company officers shall use their best efforts to obtain sufficient volunteers to raise their respective companies to the number of, at least, sixty-four non-commissioned officers and privates, which number is hereby fixed as the minimum, and one hundred as the maximum of such company organization. (*As amended by* § 1, *chap.* 809, *of* 1866.)

Proceedings where company does not contain the required number of members.

§ 27. In case of any company of the national guard shall not, on or before the first day of October next, by voluntary enlistments, reach the number of sixty-four privates, or in case such company shall at any time fall below such number, or in case a sufficient number of persons shall not volunteer to organize new companies in the unorganized company districts, it shall be lawful for the commander-in-chief to order a sufficient number of persons, and also fifty per cent in addition, to be drafted from the reserve militia of the first class, in the manner hereinafter provided, to raise such companies to, and maintain the same at, such number. The persons so drafted shall thereupon be enrolled as members of said company, and, unless they shall furnish substitutes, as hereinafter provided, shall be subject to the duties herein mentioned, and in case of non-performance of such duties, shall be subject to the pains and penalties herein mentioned; and such persons, or their substitutes, shall be entitled to all the privileges and exemptions conferred under any of the terms of this act. (*As amended by chap.* 612 *of the Laws of* 1865.)

Draft, when to be ordered.

Company officers.

§ 28. To every company there shall be one captain, one first, one second lieutenant, four sergeants, four

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corporals and three musicians, except in companies of artillery and cavalry, which may have one first and two second lieutenants, provided, however, that whenever any company shall exceed fifty rank and file it may have five sergeants and eight corporals.

Companies and company districts.

§ 29. Companies shall be formed in separate company districts when practicable, but the commander-in-chief may, in his discretion, organize more companies than one in the same district, or parts of a company in different districts.

Each division and regiment, what to consist of.

§ 30. Each division shall consist of not less than two brigades, each brigade not less than two regiments, each regiment not less than eight battalion companies of sixty-four non-commissioned officers and privates. Whenever any company shall fall below the number of sixty-four non-commissioned officers and privates, such company may be consolidated or disbanded; and whenever any regimental organization shall fall below the number of eight battalion companies, or an aggregate force of five hundred and twelve non-commissioned officers and privates, such regiment shall thereupon be designated as a battalion, but shall retain its regimental number, unless such battalion shall be consolidated or disbanded. (*As amended by* § 1, *chap.* 809 *of* 1866.)

Consolidation of companies and regiments.

Battalions of infantry, rifles, artillery, &c.

§ 31. The commander-in-chief shall have power to organize, under the provisions of this act, battalions of infantry and rifles, and battalions, batteries or companies of artillery, or for special services where it is not expedient or convenient to form regimental organizations, or whenever the exigencies of the service may require.

Certain members may not leave company without written permission except he remove out of beat.

§ 32. No non-commissioned officer, musician or private, belonging to any troop of cavalry or company of artillery, light artillery, riflemen or infantry, shall leave the troop or company to which he belongs to serve as a fireman in any fire company now raised or hereafter to be raised in any city or county; nor

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shall he leave such troop or company and enlist in any other, without the written consent of the commandant of the regiment, battalion or battery, and of the squadron, troop or company to which he belongs, except he shall have removed out of the beat of such troop or company. Such exception shall not apply to any troop or company situate in any of the cities of this State.

Minors.

§ 33. No person under the age of twenty-one years shall hereafter enlist in or join any uniform troop or company, without the consent of his parent or guardian, master or mistress, unless drafted in accordance with the provisions of this act.

Officers and members to provide uniform.

§ 34. Every officer of the line and staff, and every officer and private of any uniform company of this State, shall provide himself, according to the provisions of this act, with a uniform complete, which shall be such as the commander-in-chief shall prescribe, and subject to such restrictions, limitations and alterations as he may order.

Uniform may be provided at expense of State.

§ 35. Any non-commissioned officer or private may, upon his enlistment, or upon being drafted, in accordance with the provisions of this act, if he so select, be furnished at the expense of the State with proper uniform and equipments of his regiment or corps; in such case an entry to that effect shall be made on the company roll, and such uniform shall be furnished by the quartermaster-general's department upon the requisition of the commandant of the regiment or battalion; but such uniform and equipments shall in no case be different from those prescribed by the general regulations of the military forces of the State of New York, unless by special authority of the commander-in-chief, and only two uniforms shall be furnished by the State to any non-commissioned officer or private during his term of enlistment, except in case of actual service in garrison or field duty. (*As amended by* § 1, *chap.* 809, *of* 1866)

Number of uniforms limited.

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*§ 36. In case such uniform and equipments be furnished in accordance with the last preceding section; the same shall be left at the company armory

Uniforms furnished by State, how paid for.

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*Sections 3, 4 and 5, of chapter 334 of the Laws of 1864, are as follows, to wit:

§ 3. (1.) The comptroller, secretary of state, state treasurer, inspector general, and quartermaster-general, are hereby constituted a board, who are authorized and required to receive proof, ascertain and determine what regiments of the uniformed militia or national guard have lost, worn out or destroyed their uniforms in the service of the United States since the sixteenth of April, one thousand eight hundred and sixty-one, and to which uniforms will be issued by the State as hereinafter provided.

Board of inquisition in relation to worn out uniforms.

(2.) Such commissioners shall determine the number of such uniforms that each regiment may be entitled to, and shall procure an equal number of uniforms by contracts or such other means as they may deem most advantageous to the public interests, provided that the number of such uniforms allotted to any such regiment shall not exceed the number of men actually enrolled and doing active duty in such regiment on the first day of March, eighteen hundred and sixty-four, and such uniforms shall be issued by the quartermaster-general under the regulations governing the issue of State uniforms, as established in his department, and shall be receipted for by the individual members upon rolls provided by him. For the purpose of carrying into effect the provisions of this section, the commissioners above named shall have power to call upon the commandants of the several regiments, battalions and companies of the uniformed militia of this State to furnish such rolls, rosters and other statements, duly verified or certified, as they may deem necessary, and shall have power to administer oaths and affirmations, and to take testimony in regard to such claims. And, furthermore, the said commissioners are hereby authorized and directed to pay or cause to be paid such sums as may be due for any uniforms manufactured for any regiment of the national guard since July first, eighteen hundred and sixty-three, provided that such uniforms have been made under contracts approved by the quartermaster-general and inspected and issued through his department. The sum of

New uniforms to be procured.

Power of commissioners.

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for safe keeping, and the person applying for the same shall be charged with the value thereof, and

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Appropriation.

one hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the purpose contemplated by this section, out of any moneys in the treasury not otherwise appropriated; the comptroller, upon the certificate of said commissioners, shall, from time to time, draw his warrant upon the treasurer for such sums as may be certified by them as due to any person or persons under the provisions of this section. No regiment shall be entitled to receive any uniforms under the provisions of this section, when such regiment or the members thereof shall have received payment or compensation from a city or county or the State, for the uniforms and equipments worn and used in the service of the United States.

What regiments entitled to uniforms.

Appropriation for purchase of arms, &c.

§ 4. For the purchase of arms, uniforms, equipments, and military supplies, and for putting arms in order, and for pay of officers and privates when under pay, and all other expenditures authorized by chapter four hundred and seventy-seven, Laws of eighteen hundred and sixty-two, the sum of three hundred and fifty thousand dollars is hereby appropriated out of any moneys in the treasury not otherwise appropriated.

Contracts for purchase of military property.

§ 5. All contracts for the purchase of military property shall be made in writing by the person selling and the officer representing the State, and before becoming binding upon the State they shall be submitted for inspection and approval to the comptroller, and afterwards be specifically approved by the commander-in-chief; and the articles so purchased and delivered under such contract shall also be inspected and compared with the contract by the inspector-general before payment is made therefor on the part and behalf of the State, and all the moneys appropriated by this act shall be expended by and under the direction of the governor, State treasurer and secretary of State, so far as such expenditure relates to the purchase of arms and equipments.

Articles to be inspected.

Sections 2, 5 and 7, of chapter 612 of Laws of 1865, are as follows, so wit:

Military fund, its purpose.

§ 2. The sum of five hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated as a military fund, to uniform, arm and equip the national guard

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shall be entitled to receive half pay only for services under this act, at drills, parades, encampments and

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forces of this State, and for the payment of such other expenditures, including pay of officers and men, as is provided for and authorized by the militia laws of this State, including the pay of officers and clerks, and other expenses of the several staff departments. All officers and persons intrusted with the disbursement of all moneys appropriated by this act, and all with the disbursement of any funds appropriated or to be appropriated for military purposes, and for the payment of State bounties, shall file a bond in the office of the comptroller of this State, with good and sufficient sureties, to be approved by the governor of this State, for the faithful application of the funds intrusted to him. And the commissioners of public accounts are hereby authorized and required to inspect, audit and compare the vouchers for the disbursement of all military or bounty moneys, as provided in chapter two hundred and twenty-three of the Laws of eighteen hundred and sixty-two.

Disbursing officers to file bond.

Inspection of accounts.

§ 5. The commandant of each regiment, separate battalion, battery or company shall, in and during the month of September, in each year, make return, to the appropriate military departments, of all clothing, quartermasters' stores, camp and garrison equipage, ordnance and ordnance stores, which return shall be made out in triplicate, and shall account for all stores and property on hand since last report, all property received within the like period, the present condition of the same, and what has been damaged, lost, destroyed and expended. One copy of such return shall be retained by the officer making the same, and the other two copies thereof forwarded to the chief of the proper military department, who shall keep one copy and forward the other to the adjutant-general. Any neglect of this provision is hereby declared to be a military offense, punishable in the discretion of a court martial.

Commandants to make return of clothing, &c.

Penalty for neglect.

§ 7. It shall be the duty of every officer or person, upon entering into any contract on the part of this State for the purchase of any arms, ordnance, ordnance stores, equipments, or other military property, to transmit, without delay, a copy of such contract, with the specifications connected therewith, to the inspector-general for his information.

Copy of contract to be transmitted, &c.

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lake and sea-coast defense duty, until the sum charged against him therefor shall have been liquidated by such service, when such uniform and equipment shall become the property of such person.

Penalty for wearing, selling, &c., of uniforms.

§ 37. Whoever shall secrete, sell, dispose of, offer for sale, or in any manner pawn or pledge any uniform or equipments, the property of the people of this State, and any member of or substitute in the national guard who shall, when not on duty, wear any such uniform or equipments without the permission of his commanding officer, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment in the county jail for not less than one nor more than two months, or by a fine of not more than one hundred nor less than fifty dollars. (*As amended by* § 1, *chap.* 809 *of* 1866.)

Quartermaster-general to order manufacture of uniform and equipment, and to draw warrant on comptroller for pay of same.

*§ 38. The quartermaster-general shall, under the direction and with the approval of the commander-in-chief, cause to be manufactured the uniforms and equipments which may, from time to time, be required for each regiment, for the purposes mentioned in this act. And the comptroller, upon the order of the commander-in-chief, shall draw his warrant upon the treasurer for such sums as shall, from time to time, be expended for the purchase or manufacture of said uniforms and equipments; provided, always, that the price paid for the same shall in no case exceed the prices paid for uniforms and equipments of like quality for the army of the United States. (*As amended by chap.* 612 *of* 1865.)

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*Section 2 of chapter 809 of 1866 is as follows, viz.:

Quartermaster-general to be paying and issuing officer.

§ 2. The quartermaster-general and the commissary-general of ordnance, each in his own department, shall be the purchasing and issuing officer, and shall take charge of and be responsible for such military property and supplies as are known and designated by the regulations and orders governing the army of the United States as belonging to the ordnance department and the quartermaster department respectively.

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Vouchers, &c., to be audited.

§ 39. All vouchers and accounts under the last preceding section shall, from time to time, be audited by a committee, to consist of the comptroller, treasurer, and secretary of State.

Books, as guides, to be furnished to officers.

§ 40. The commander-in-chief shall, from time to time, direct such books, as to him shall appear expedient, as a guide for the military forces of this State, to be provided, and shall furnish the same to all commissioned officers at the expense of the State.

Companies, &c., to be numbered or lettered and so designated.

§ 41. The commander-in-chief shall cause each company, squadron, troop, battery, battalion, regiment, brigade and division to be numbered or lettered in such manner as he shall deem proper and best calculated to secure uniformity. Each company, squadron, troop, battery, battalion, regiment, brigade and division shall be known by its number and designation, which shall be registered at the adjutant-general's office.

Non-commissioned officers, whence chosen.

§ 42. Non-commissioned officers shall be chosen from the members of the company to which they belong. All commissioned officers residing in any city or incorporated village in this State shall be deemed to be within the bounds of their respective commands, providing any part of the military district to which they properly belong shall be located within such city or village.

Commissioned officers in cities, &c.

Existing companies containing requisite number to be deemed organized.

§ 43. All existing uniformed companies, in any such regimental district, city or village, shall be deemed to be organized under the provisions of this act; but no such company shall be so constituted, unless at the time of such application it contains thirty-two non-commissioned officers and privates.

Field officers, when to be elected.

§ 44. Whenever six uniformed companies shall be organized in any of the regimental districts of this State, the commander-in-chief shall order an election to be held for the choice of suitable persons to fill the offices of colonel, lieutenant-colonel and major in such regiment, by directing some suitable officer to give the proper notice of such election, and to

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preside thereat, unless such officer shall already have been elected or appointed; but the colonel so elected or appointed shall not be commissioned until eight battalion companies of sixty-four non-commissioned officers and privates shall be fully organized. (*As amended by* § 1, *chap.* 809 *of* 1866.)

Colonel, when to be commissioned.

Brigadier-general and brigade inspector, when to be elected.

§ 45. As soon as the field officers in the regiments in any of the brigade districts of this State shall be duly chosen and commissioned, the commander-in-chief shall order an election to be held for the choice of a suitable person to fill the office of brigadier-general and brigade inspector in such brigade district, by directing some suitable officer to give the pronotices* of such election and preside thereat, unless such brigadier-general and brigade inspector shall already have been elected or appointed, as provided by this act.

Privileges of supernumerary officers.

§ 46. All commissioned officers rendered supernumerary by the provisions of this act, and every officer rendered supernumerary by any consolidation or alteration of regiments, battalions, squadrons, troops or companies, shall be entitled to all the privileges conferred by any preceding law (except command), and shall be exempt from the performance of any military duty, except in cases of war and insurrection, provided they shall, within one year after being so rendered supernumerary, have reported themselves to the adjutant-general as such; provided, however, that no officer rendered supernumerary shall be entitled to vote at any election held for the choice of officers, or serve as a member of any court-martial.

Proviso.

Volunteers may serve in districts where they do not reside.

§ 47. Volunteers under the provisions of this act may be received in any company of the national guard, whether such volunteer reside in the company district or not; but persons liable to military duty shall be drafted only in the district where they may reside.

Draft.

* So in the original.

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§ 48. Any officer, non-commissioned officer, musician or uniformed private who may change his residence from within the bounds of the first division into any adjacent county, or from within any county adjacent into the said division district, shall not thereby vacate his office or post, but he shall be held to duty in the division, brigade, regiment, troop or company to which he was attached at the time of such change of residence, and shall be eligible to promotion, election or appointment to office therein, and he shall be subject to duty therein, and shall be entitled to all privileges, immunities and exemptions allowed by law, and shall be liable to fines and penalties, and the collection of them, in the same manner as if such change of residence had not taken place, and process for the collection of such fines and penalties may be executed in either New York or any adjacent county. (*As amended by* § 1, *chap.* 809 *of* 1866.)

Office or post not vacated by change of residence.

23 N. Y. R., 53.

ON THE ELECTION AND APPOINTMENT OF MILITARY OFFICERS, AND THE TENURE OF THEIR OFFICES.

§ 49. All major-generals, and the commissary-general, shall be nominated by the governor, and appointed by him, with the consent of the senate.

Major and commissary-generals, how appointed.

§ 50. The resolution of the senate, concurring in any nomination made by the governor to a military office, shall be certified by the president and clerk of the senate, and be transmitted to the adjutant-general, who shall issue the commission and record the same in books to be provided by him.

Commissions, how issued.

§ 51. The staff of the commander-in-chief shall consist of the adjutant-general, an inspector-general engineer-in-chief, judge-advocate-general, quartermaster-general, commissary-general of subsistence, paymaster-general, surgeon-general and three aids, who shall be appointed by the governor, and whose commission shall expire with the time for which the governor shall have been elected.

Staff of commander-in-chief.

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Commissary-general to take oath of office.

2 Hill, 434.

§ 52. The commissary-general shall hereafter be known as the commissary-general of ordnance, and shall not enter on the duties of his office until he shall have taken the oath of office prescribed in the constitution. Such oath shall be taken before any officer authorized to administer the same oath to the attorney-general within the same period, and subject to the same regulations.

Company officers, how chosen.

§ 53. Captains, subalterns, and non-commissioned officers of organized regiments, shall be chosen by the written or printed votes of the members of their respective companies; field officers of organized regiments and battalions, by the written or printed votes of the commissioned officers of their respective regiments and battalions; and brigadier-generals and brigade inspectors, by the written or printed votes of the field officers of their respective brigades, if organized.

Field officers to appoint their own staff officers.

§ 54. Major-generals, brigadier-generals, and commanding officers of regiments or battalions, shall appoint the staff officers of their respective divisions, brigades, regiments or battalions, whose term of office shall expire when the persons appointing them shall retire from office; but they shall continue to hold such office until their successor shall be appointed and have qualified.

Commissioned officers, how commissioned and how removed.

* § 55. The commissioned officers of the national guard shall be commissioned by the governor, but he may, in his discretion, withhold such commission in order to determine the qualifications of the person for the office to which he shall have been elected or appointed; and in case of a general or field officer,

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* Section 2 of chapter 334 of the Laws of 1864, which reads as follows, to wit:

"§ 2. The governor of this State shall not commission any officer of the national guard (except major-general), unless such officer shall have been duly elected by the qualified electors of his command; and an election shall be ordered in

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if upon reference to the inspector-general or an examining board, and in case of a line officer, upon reference to his brigade commander, such person shall be adjudged unqualified for such office, another officer shall, within ten days after due notice of such adverse decision, be elected or appointed, and in default of such election, the vacancy shall be filled by the commander-in-chief, and no commissioned officer can be removed from office unless by the senate, on recommendation of the governor, stating the grounds on which such removal is recommended, or by the decision of a court martial, or retiring or examining board, or pursuant to law. But whenever any regiment shall fall below the minimum strength, as is established by this act, and the same shall have been designated as a battalion, the colonel shall be relieved from command of such battalion, and rendered supernumerary, by order of the commander-in-chief. (*As amended by chap.* 612 *of* 1865, *and by* § 1, *chap.* 809 *of* 1866.)

Colonel, when to be rendered supernumerary.

§ 56. Sergeant-majors, quartermaster-sergeants, sergeant standard-bearers and drum-majors shall be appointed by the commanding officer of the regiment or battalion to which they shall belong, by warrant under the hand of such commanding officer, and shall hold their offices during his pleasure.

Sergeant-majors, &c. how appointed, and term of office.

§ 57. Whenever the office of a brigadier-general is vacant in any organized brigade, the commander-in-chief shall issue an order for an election to fill the vacancy, and shall designate a major-general or some other proper officer to preside at such election.

Vacancy in office of brigadier-general.

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every company, regiment and brigade, within one hundred days after such company, regiment or brigade shall be sufficiently organized for such purpose, pursuant to the provisions of chapter four hundred and seventy-seven, Laws of eighteen hundred and sixty-two," *is repealed by section three of chap.* 809 *of* 1866.

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Notice of election to be served on field officers.

§ 58. The officer so designated shall cause a written or printed notice to be served on each of the field officers of the brigade in which the vacancy exists, at least ten days previous to the election, specifying the time and place of holding such election.

Vacancy in office of field officer.

§ 59. Whenever the office of any field officer in any organized regiment or battalion is vacant, the commanding officer of the brigade to which such regiment or battalion belongs, shall cause a written or printed notice to be served on each commissioned officer in such regiment or battalion, of an election to fill the vacancy. The notice shall specify the time and place of holding the election, and be served at least five days before such election shall take place.

Vacancy in company offices.

§ 60. Whenever the office of a captain or subaltern in any organized company or troop is vacant, the commanding officer of the regiment or battalion to which such company or troop belongs, shall cause a written or printed notice of an election to fill the vacancy, to be served on the members of such company or troop, at least three days before the election shall take place, and shall specify in such notice the time and place of the election.

Notices of election, on whom served.

§ 61. All notices for any election shall be served on the persons entitled to vote thereat, in the same manner as non-commissioned officers, musicians and privates are warned to attend a parade, as prescribed in section one hundred and thirty-nine of this act.

How served.

§ 62. The officer issuing the notice shall designate some proper person or persons to serve the same or to direct such service; and the person so designated shall make a return of the persons notified, and of the manner of the services.

Returns to be authenticated.

§ 63. The return, if made by a commissioned officer, shall be authenticated by his certificate on honor; if by a non-commissioned officer, by the oath of the person making such service. The oath may be administered by any magistrate, or by the officer issuing the notice.

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§ 64. The officer causing the notice to be given for any of the aforesaid elections, shall attend at the time and place of holding such elections; he shall organize the meeting and preside thereat, and may, for sufficient cause, adjourn the same from time to time. Officer giving notice to attend at election.

§ 65. If the officer causing the notices to be given shall not attend the meeting for the election, then the officer of the highest rank present, or in case of an equality of rank between two or more, then such of them as the majority of the electors present shall choose, shall preside at such meeting. And the officer issuing such notices shall cause the proper evidence of service of such notices on all the electors to be delivered to such presiding officer. And at meetings for the election of company officers, the company roll, carefully revised, shall in like manner be delivered with such evidence. And if it shall happen at any election for commissioned officers that legal notice has not been given to all the persons entitled to vote thereat, the presiding officer shall adjourn the meeting, and cause such notice to be given. The presence of a person entitled to vote at any election shall be deemed a waiver of his right to take exception to the want of legal notice. Proceedings at election of officers.

§ 66. The presiding officer at any election for commissioned officers, shall keep the polls opened at least one hour after the time appointed for holding the same. He shall then publicly canvass the votes received from the electors for the officers to be elected, and shall forthwith declare the result, and give notice to every person elected of his election. If such person shall not, within ten days after being notified of his election, signify to such officer his acceptance, he shall be considered as declining the office to which he shall have been chosen, and an election shall be held for a new choice. Election, canvass of votes and notice of election. Non-acceptance.

§ 67. Immediately after the person elected shall have signified his acceptance, the officer who shall Election of officer to be certified af-

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ter acceptance.

have presided at the election shall, in case of the election of a brigadier-general, communicate the same to the commander-in-chief; and in all other cases, if not himself the commanding officer of the brigade, shall certify to such commanding officer the names of the persons duly elected.

Vacancies from promotions.

§ 68. If at any election an officer, then in commission, shall be elected to fill a vacancy, and shall accept, the electors present, whether such officer be present or absent, shall proceed to elect a person to fill the place of the officer so promoted, if the officers or persons assembled at such meeting have authority to make the choice.

Names of officers to be transmitted to commander-in-chief.

§ 69. The commanding officers of brigades shall transmit the names of persons duly elected and approved, or appointed to offices in their respective brigades, to the commander-in-chief, to the end that commissions may be issued to them.

Appeals, to whom made.

§ 70. Every person thinking himself aggrieved by the proceedings at any election for a commissioned officer, may appeal, if the election be for a brigadier-general, to the commander-in-chief, and in other cases to the commanding officer of the brigade to which such person belongs.

Officers appealed to, powers of, in certain cases.

§ 71. The officer appealed to shall have power to administer oaths, and shall hear and determine the appeal; and if in his opinion the proceedings at such election are illegal, he shall declare the election void, and shall order an election to be held without delay for a new choice.

Decisions of commanding officer of brigade may be appealed from.

§ 72. Any person concerned may appeal from the decision of the commanding officer of the brigade to the commander-in-chief, who shall hear and determine such appeal, and in case it shall be necessary, order a new election.

Rules relative to appeals may be made.

§ 73. The commander-in-chief may make such rules and regulations relative to appeals as he shall deem necessary and proper to give full effect to the provisions of the constitution and of this act.

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Commissions to be issued by commander-in-chief. Officer to take prescribed oath within ten days after commission is tendered.

§ 74. The commander-in-chief shall issue commissions to all officers duly elected or appointed in pursuance of the provisions of this act; and every officer duly commissioned shall, within ten days after his commission shall be tendered to him, or within ten days after he shall be personally notified that the same is held in readiness for him, by any superior officer, take and subscribe the oath prescribed in the constitution of this State; and in case of neglect or refusal to take such oath within the time mentioned, he shall be deemed to have resigned said office, and a new election shall be forthwith ordered to fill his place. The neglect or refusal of an officer elect to take such oath shall be no excuse for neglect of duty until another shall be duly commissioned in his place.

Neglect to accept office no excuse for neglect of duty.

Commissioned officer to take oath before proper officer.

§ 75. Every commissioned officer shall take and subscribe such oath before a judge of some court of record in this State, county clerk, commissioner to take affidavits, justice of the peace, or some general or field officer who has previously taken it himself, and who is hereby authorized to administer the same.

Certificate of oath.

§ 76. A certificate of the oath shall be indorsed by the officer administering the same on the commission, and a copy thereof shall be filed in the adjutant-general's office.

No fee for administering.

§ 77. No fee shall be received for administering any such oath, or indorsing such certificate.

Vacancies in non-commissioned offices.

§ 78. Any organized company or troop may, at any meeting thereof, elect non-commissioned officers to fill any vacancy therein.

Election, how conducted.

§ 79. Such election shall be directed and conducted by the commanding officer of such company or troop for the time being, who shall certify the names of the persons elected to the commanding officer of the regiment or battalion to which the company or troop belongs, who shall decide upon the legality of the election, and shall issue warrants to the persons duly elected.

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Special meetings may be called.

§ 80. The commandants of companies or troops may, whenever they deem it necessary, call a special meeting of their respective companies or troops for an election of non-commissioned officers.

Election of brigadier-general, &c.

§ 81. A majority of the votes of all persons present at an election of brigadier-general shall be necessary to a choice; in all other cases a plurality shall be sufficient.

Resignations.

§ 82. No officer shall be considered out of the service on the tender of his resignation until it shall have been accepted by the commander-in-chief. The commanding officers of brigades shall receive the resignations of such commissioned officers as may resign in their respective brigades, and shall transmit the same to the adjutant-general. Resignations of all other commissioned officers shall be made direct to the commander-in-chief.

When resignations are not permitted.

§ 83. No officer shall be permitted to resign his commission who shall be under arrest, or shall be returned to a court-martial for any deficiency or delinquency; and no resignation shall be accepted unless the officer tendering the same shall furnish to the adjutant-general satisfactory evidence that he has delivered all moneys in his hands as such officer, and all books and other property of the State in his possession to his next superior or inferior officer, or to the officer authorized by law to receive the same, and that his accounts for money or public property are correct.

When resignations to take effect.

§ 84. In time of war, or when the military forces of this State are in actual service, resignations shall take effect thirty days from the date of the order of acceptance, unless otherwise specially ordered by the commander-in-chief.

Election to fill vacancy, notice of.

§ 85. On accepting the resignation of any officer, the commander-in-chief shall cause the necessary notices and orders to be given for an election to fill the vacancy so created, provided, however, that when the military forces of this State shall be in the actual service thereof, or in the service of the United States

Proviso.

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in time of war, insurrection, invasion or imminent danger thereof, the commander-in-chief shall fill all vacancies of commissioned officers by appointment.

When office deemed vacated.

§ 86. Every officer who shall move out of the bounds of his command (unless such removal shall not be beyond the bounds of a city in which such command shall lie in whole or in part), and every officer who shall be absent from his command twelve months without leave of the commanding officer of his brigade, shall be considered as having vacated his office, and a new election shall be held, without delay, to fill the vacancy so created, except as above provided.

Who may vote at election of officer.

§ 87. No person shall be allowed to vote at any election for a commissioned or non-commissioned officer of a company, unless he is an actual member of such company where he shall offer to vote, and liable to do military duty therein.

Vote may be challenged.

§ 88. If any person offering to vote at any election for a commissioned officer of a company, shall be challenged as unqualified by any person entitled to vote thereat, the presiding officer shall declare to the person so challenged the qualifications of an elector.

Oath.

§ 89. If he shall state himself to be duly qualified, and the challenge shall not be withdrawn, the presiding officer shall then tender him the following oath:

"You do swear (or affirm) that you are an actual member of the company commanded by , and that you are liable to do military duty therein."

Commissions of subordinate officers.

§ 90. The commissioned officer who shall receive a commission for any subordinate officer, shall, within thirty days thereafter, give notice thereof to the person entitled to it.

Commander-in-chief to appoint board to examine abilities, &c., of commissioned officers. Duties of.

§ 91. The commander-in-chief is hereby authorized, so often as he may deem that the good of the service requires, to appoint a military board or commission of not less than three nor more than five officers, to sit at such place as he shall direct, whose duty it shall

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be to examine into the physical ability, moral character, capacity, attainments, general fitness for the service, and efficiency of such commissioned officers, as the commander-in-chief may order to be examined by said board, or who may be reported for examination to the adjutant-general by colonels of their regiments, or general officers commanding their brigades or divisions, and upon such report may be ordered to be examined by the commander-in-chief. If the decision of said board be unfavorable to such officer, and be approved by the commander-in-chief, the commission of such officer shall be vacated; provided, always, that no officer shall be eligible to sit on such board or commission whose rank or promotion would in any way be affected by its proceedings; and two members, at least, if practicable, shall be of equal rank with the officer to be examined. The officers constituting such board shall receive the same pay and allowances for traveling expenses as members of courts-martial.

Pay.

Officer whose commission is vacated when eligible. Vacancies how filled.

§ 92. No officer, whose commission shall have been vacated under the next preceding section, shall be eligible for election to any military office for the period of one year, and his election shall be void; and in case the vacancy so created shall not within thirty days be filled by the election of some other and proper person, the commander-in-chief shall have power to fill such vacancy by appointment.

Supernumerary list, who to be placed on.

§ 93. If any commissioned officer shall have become or shall hereafter become incapable of performing the duties of his office, and any commissioned officer who shall have served in the same grade for the continuous period of ten years, may be placed on the supernumerary list and withdrawn from active service and command. (*As amended by* § 1, *chap.* 809 *of* 1866.)

Board to be appointed with powers of court-martial and courts of

§ 94. In order to carry out the provisions of this act, the commander-in-chief shall cause to assemble a board of not less than three nor more than five

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commissioned officers, all of whom shall have served in the volunteer service of the United States, one of whom at least shall be of the medical staff, to determine the facts as to the nature and occasion of the disability of such officers as appear disabled or unfit, from any cause, to perform military service, such board being hereby invested with the powers of a court of inquiry and court martial, and their decision shall be subject to like revision as that of such courts by the commander-in-chief. The board, whenever it finds an officer incapacitated for active service, shall report such fact to the commander-in-chief, and if he approves such judgment the disabled officer shall thereupon be placed upon the supernumerary list, according to the provisions of this act; provided, always, that the members of the board shall in every case be sworn to an honest and impartial performance of their duties, and that no officer shall be placed upon the supernumerary list by the action of said board without having had a fair and full hearing before the board, if upon due summons he shall demand it. Provided that it shall not be necessary to refer any case for the action of such board arising under section ninety-three, except the officers designated by the commander-in-chief to be retired, shall within twenty days after notice that he will be retired, by notice in writing to be served on the adjutant-general, demand a hearing and examination before such board. (*As amended by chap.* 612 *of* 1865, *and by* § 1, *chap.* 809 *of* 1866.

Inquiry; duties of.

Supernumerary list.

Oath of office.

§ 95. In time of war, insurrection, invasion, or imminent danger thereof, when the military forces of this State shall be in the actual service thereof, the commander-in-chief shall have power, whenever the public interests may in his opinion so require, to suspend from active service such officer or officers as he shall deem it discreet so to suspend, and fill the vacancy thus created by appointment; but no such suspension shall continue for a longer period than

Commander-in-chief may suspend officers from active service in certain cases.

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thirty days, unless a court-martial shall have in the meantime been ordered for the trial of such officer or officers.

OF THE ORGANIZATION OF THE STAFF DEPARTMENTS.

Commander-in-chief.

§ 96. The commander-in-chief shall be entitled to three aids and one military secretary, each with the rank of colonel, and a military messenger with rank of second lieutenant. The commissary-general shall be a member of the staff of the commander-in-chief, and be subject to the provisions of this act. (*As amended by chap.* 612 *of* 1865.)

Major-general.

§ 97. Each major-general shall be entitled to two aids, with the rank of major; and each brigadier-general to one aid, with the rank of captain.

Adjutant-general's rank and department.

§ 98. The adjutant-general shall have the rank of brigadier-general; and in his department there shall be an assistant adjutant-general, with the rank of colonel, and such acting assistants as may be approved by the commander-in-chief; to each division a division inspector, with the rank of colonel; to each brigade a brigade inspector, to serve also as a brigade major, with the rank of major; and to each regiment or battalion an adjutant, with the rank of first lieutenant. (*As amended by chap.* 612 *of* 1865.)

Rank and duties of inspector-general.

*§ 99. The inspector-general shall have the rank of brigadier-general, and his duty shall be to attend to the organization of the militia of this State. He shall inspect every branch connected with the military service, attend the military parades and encampments, when other official duties will permit, and report annually to the commander-in-chief. In the inspector-

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* Section 4, of chapter 809 of 1866, reads as follows, viz.:

Auditor of military accounts, his duties.

§ 4. All accounts or claims payable from any military fund of the State, shall be regularly audited by the auditor of military accounts, and approved by the governor, as commander-in-chief, before payment.

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general's department there shall be an assistant inspector-general, with the rank of colonel, who shall also act, under the directions of the inspector-general, as inspector of military accounts.

Engineer-in-chief.

§ 100. The engineer-in-chief shall have the rank of brigadier-general; and there shall be in his department, to each division, a division engineer, with the rank of colonel; to each brigade, a brigade engineer, with the rank of major; to each regiment, one engineer, with the rank of captain.

Quartermaster-general's department, officers in, and their rank.

§ 101. In the quartermaster-general's department there shall be a quartermaster-general, with the rank of brigadier-general; an assistant quartermaster-general, with the rank of colonel; to each division, a division quartermaster, with the rank of lieutenant-colonel; to each brigade, a brigade quartermaster, with the rank of captain; and to each regiment or battalion, a quartermaster, with the rank of lieutenant; and the quartermaster-general may, with the approval of the commander-in-chief, appoint so many storekeepers as the exigencies of the service may require, not exceeding one to each storehouse. (*As amended by chap.* 334 *of* 1864.)

Commissary-general of subsistence.

§ 102. In the department of the commissary-general of subsistence, there shall be a commissary-general of subsistence, with the rank of colonel; and in his department there shall be so many assistant commissaries, with the rank of captain, as the exigencies of the service may require; such assistant commissaries to be appointed by the commander-in-chief, and to hold their offices during his pleasure.

Paymaster-general's department.

§ 103. In the paymaster-general's department there shall be a paymaster-general, with the rank of brigadier-general; and in his department there shall be an assistant paymaster-general, to be appointed by the paymaster-general, with the rank of colonel; to each division, a division paymaster, with the rank of major; and to each brigade, a brigade paymaster, with the rank of captain; but such paymasters may at any

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time be detached from service in said brigades or divisions, as well as other officers of the general staff, by order of the commander-in-chief. (*As amended by chap.* 612 *of* 1865.)

Commissary-general of ordnance.

2 Hill, 434.

§ 104. The commissary-general shall hereafter be known as the commissary-general of ordnance, and shall have the rank of brigadier-general; and in his department there shall be an assistant, with the rank of colonel; and so many military storekeepers, for the safe keeping and the preservation of the State arsenals, magazines, fortifications and military stores belonging to this State, as he may find it necessary to appoint, not exceeding one to each arsenal.

Surgeon-general's department.

§ 105. In the hospital department there shall be a surgeon-general, with the rank of brigadier-general; to each division, a hospital surgeon, with the rank of colonel; to each brigade, a hospital surgeon, with the rank of major; to each regiment, a surgeon, with the rank of major; and to each regiment or separate battalion, an assistant surgeon, with the rank of first lieutenant, who shall be commissioned, on the recommendation of the surgeon-general; but the rank of these officers shall not entitle them to promotion in the line, nor regulate their pay and allowances in the service; all such officers to be graduates of some incorporated school of medicine. (*As amended by chap.* 612 *of* 1865.)

Chaplains.

§ 106. To each regiment or battalion there shall be appointed one chaplain, who shall be a regular ordained minister of a Christian denomination.

Judge-advocate-general.

§ 107. In the judge-advocate's department there shall be a judge-advocate-general, with the rank of brigadier-general; to each division, a division judge-advocate, with the rank of colonel; and to each brigade, brigade judge-advocate, with the rank of major.

Officers of regiment or battalion.

§ 108. There shall be to each regiment or battalion two sergeant standard-bearers, one sergeant-major, one quartermaster-sergeant, one commissary-sergeant, and one drum-major; and to each regiment or bat-

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talion of light artillery and cavalry, one trumpet-major.

§ 109. The chief of each staff department shall, under the direction of the commander-in-chief, have command over all subordinate officers in his department, and shall, from time to time, issue orders and instructions for their government and practice. Duties of chief of staff department.

§ 110. The commander-in-chief is hereby authorized and empowered to organize, in his discretion, the various staff departments, and to prescribe, by rules and regulations, the duties to be performed by the officers connected therewith, which shall, as far as may be, comform to those which are prescribed for the government of the staff department in the army of the United States; and, in time of war, insurrection or invasion, or imminent danger thereof, and when the exigencies of the service shall require, he may appoint and commission three additional aids upon his staff, with the rank of colonel; and also such number of assistants in the several staff departments, with the rank of lieutenant-colonel or major, as in his judgment shall be necessary. Such assistants shall be selected from persons who have served meritoriously in the volunteer service of the United States, and shall hold their commissions only during the term of service of the staff officer in whose department they shall be appointed, or during the pleasure of the commander-in-chief. (*As amended by chap.* 612 *of* 1865.) Organization of staff department.

§ 111. Each chief of such department shall prepare and transmit, at the expense of this State, all blank forms of returns, precepts, warrants and proceedings necessary in his department. Blank forms.

OF THE ORGANIZATION OF BANDS OF MUSICIANS.

§ 112. The commanding officer of each regiment or battalion may, in his discretion, organize a band of musicians, and by warrant, under his hand, may appoint a leader of such band. Commanding officer may organize band.

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Musicians subject to order of leader.

§ 113. Such musicians shall be subject to the orders of such leader, and be under the command of the commanding officer of the regiment or battalion; and the whole or any part of said band may be required by such commanding officer to appear at any meeting of the officers for military purposes, and at the review and inspection or encampment of such regiment or battalion.

Leader to make returns.

§ 114. The leader of each band shall, whenever required by such commanding officer, make returns to him of the warning of the members of his band, and of the delinquents and delinquencies therein, which returns shall be duly authenticated by the oath of such leader, taken before a field officer of such regiment or battalion.

Returns to be received as evidence.

§ 115. Such return, so sworn to, shall be received as evidence in all cases, in the same manner as like returns of non-commissioned officers of infantry companies.

Returns of commanding officers.

§ 116. Such commanding officer shall make the like returns of all such delinquents and delinquencies, as in cases of non-commissioned officers and musicians in companies of infantry, and with like effect, and the courts-martial shall impose the like penalties on such delinquent members of said band.

Commanding officer may disband.

§ 117. The commanding officer of such regiment or battalion shall have authority to disband such band, whether now or hereafter established, and to revoke the warrant of its leader.

Provisions, to whom to apply.

§ 118. The provisions of this article shall apply to all musicians employed to serve with the military forces of this State.

OF THE ISSUING AND SAFE KEEPING OF ARMS.

Company armories.

§ 119. Whenever any company, organized under the provisions of this act, shall have reached the minimum* number of thirty-two non-commissioned

* Chapter 809 of 1866 amends § 26 (see *ante*) so as to make the minimum number 64 instead of 32.

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officers and privates, the supervisors of the county in which such company district is situated may, at their discretion, upon the demand of the captain or commandant of such company, countersigned by the colonel of the regiment, together with the certificate of the adjutant-general, that such company comprises thirty-two non-commissioned officers and privates, who, as appears by the certificate of the colonel of the regiment to which such company is attached, regularly attend the drills and parades of said company, and have been furnished with arms, erect or rent within the bounds of such regiment, for said company, a suitable and convenient armory, drill-room, and place of deposit for the safe keeping of such arms, uniforms, equipments, accoutrements and camp equipage, as shall be furnished such company under the provisions of this act, except in such places where a public armory shall then exist, the same armory to be used by several companies, or shall provide a regimental or battalion armory to be used by all the companies, as the inspector-general and the board of supervisors of the county shall deem expedient. (*As amended by* § 3, *chap.* 425 *of* 1863.)

Expense of armory a county charge.

§ 120. The expense of erecting or renting such armories shall be a portion of the county charges of such county, and shall be levied and raised in the same manner as other county charges are levied and paid.

When commandant may rent room for purpose of armory.

§ 121. In case such armory shall not be erected or rented by the supervisors for the use of such company, the commandant of the regiment, in his discretion, with the approval of the inspector-general, may rent a room or building to be used for the purpose of such armory, and the amount of rent thereof, provided the same shall not exceed the sum of two hundred and fifty dollars for each company, in the several cities of this State, and fifty dollars for companies not located in cities, shall be a county charge, and shall

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be paid by such supervisors, and levied and raised as hereinbefore provided.

Armory to be under control of commanding officer.

§ 122. Such armory, when erected or rented, shall be under the control and charge of the commanding officer of the regiment in whose bounds or district it shall be located; and such commanding officer shall deposit therein all arms and equipments received from time to time for the use of any company in his regiment.

Commissary-general to furnish arms and equipments.

§ 123. The commissary-general of the State shall furnish, on the order of the commander-in-chief, all necessary arms and equipments, suited to the particular company or corps belonging to each regiment, required for camp and field duty; the same to be furnished at the expense of the State, including transportation. But no arms or equipments shall be furnished to any company or corps, unless such company or corps shall be connected with the regular military organization of the State.

Bonds to be executed for safe keeping of arms.

2 Hill, 434.

§ 124. The commanding officer of each regiment or company shall be responsible for the safe keeping and return of all arms and equipments committed to his charge, and shall execute such bonds as the commander-in-chief shall require from time to time; and no company shall be so furnished until bonds for the safe keeping and return shall be made out and approved by the commander-in-chief, and until a suitable armory or place of deposit shall be assigned, rented or erected, in such regiment.

Distribution and care of arms.

2 Hill, 434.

§ 125. The commanding officer of any regiment or company who shall have received, according to the provisions of this act, any arms and equipments from the State for the use of his regiment or company, shall distribute the same to his regiment or company, as he shall deem proper, and require of those to whom they were distributed to return them at such time and place as he shall order and direct; and any officer who shall neglect or refuse to comply with such order, shall forfeit the sum not to exceed double the

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price of any arms or equipments he shall have received, to be sued for and collected in the name of the commandant of the regiment for the use of the military fund of such regiment.

Commanding officer to appoint some one to take care of armory.

§ 126. The commanding officer of each regiment shall appoint a suitable person to take charge of the armory, armories or place of deposit of his regiment, or of the several companies in his regiment, and all arms, equipments, and other property of the State therein deposited, and to discharge all duties connected therewith, as shall be from time to time prescribed by the commanding officer.

Pay of armory keeper.

§ 127. Such person so appointed shall receive a compensation not to exceed one dollar and fifty cents per day for the time actually employed in cleaning guns and other duties indispensably necessary for the safe keeping and preservation of such property of the State as shall be committed to his charge, which shall be a county charge upon the county in which said armory is situated, and audited and paid in the same manner as other county charges. (*As amended by chap.* 612 *of* 1865.)

Rules for officers having charge of armory.

§ 128. The commander-in-chief shall, from time to time, make such orders, rules and regulations as he may deem proper for the observance of all officers having charge of any armory in which arms of the people of this State shall be deposited.

When commanding officer of regiment to deliver arms to company officers.

2 Hill, 434.

§ 129. Whenever the commissioned officers of any uniformed company in this State shall make application to the commanding officer of their regiment for any arms or equipments suited to the corps to which their company may belong, and who shall, at the same time, furnish such commanding officer with sufficient bonds for the safe keeping and return of the same, he may deliver to such officers such arms and equipments belonging to this State as he shall deem proper; but no such arms or equipments shall be delivered, unless the bonds given for the safe keeping and return thereof shall be approved by the sureties

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who became responsible in the bonds furnished to the commander-in-chief for all such arms and equipments.

Willful injury to arms.

§ 130. Any person who shall willfully injure such armory, or its fixtures, or any gun, sword, pistol or other property of the State therein deposited, shall be deemed guilty of a misdemeanor.

Officers may be required to examine armory.

§ 131. The commissary-general may, from time to time, require any officer to examine any armory provided as aforesaid, and report to him the condition thereof, and of the arms and camp equipage therein deposited.

Applications for camp equipage, what to contain.

§ 132. All officers applying for the issue of camp equipage shall set forth in their application the number of tents which they will require, the time when their respective regiments or companies go into camp, and the number of days which such encampment will continue; and the commanding officer of each camp shall, immediately after the breaking up of the encampment, cause the equipage to be returned to such of the State arsenals, or turned over to such officer as may be directed by the adjutant-general; provided, however, that such tents and camp equipage shall be deposited in some one of the State arsenals on or before the first day of November in each year.

OF THE DRILLS, PARADES AND RENDEZVOUS OF THE NATIONAL GUARD, AND OF COMPENSATION FOR MILITARY SERVICES.

Annual parades.

§ 133. Whenever any company or companies shall be organized, uniformed and equipped, in any regimental district of this State, such company or companies shall parade annually thereafter by regiment, battalion or company, at such time and place, between the first day of May and the first day of November, as the commanding officers of their respective brigades shall order and direct, for the purpose of discipline, inspection and review. At any such parade, all the commissioned and non-commissioned officers, musicians and privates, shall appear and discharge

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any and all the duties required to be performed by the commanding officer. No person shall be permitted in the ranks, on any parade, who does not appear in full uniform and armed and equipped, suited to the company to which he belongs; and no person shall be permitted in the ranks who is not fully armed and equipped according to the provisions of this act, and the laws of the United States; and all members who shall appear without such arms and equipments, or without a uniform, at any parade, shall be returned as absent from parade and fined accordingly. At such annual parade an actual muster shall be made by the commanding officer present thereat, of each commissioned and non-commissioned officer, musician and private present and absent, and a muster roll in duplicate, shall be made and officially certified to and returned by such commanding officer, in accordance with such regulations and restrictions as may be issued by the commander-in-chief. And the brigade inspector shall at the same time make a like muster of the field, commissioned and non-commissioned staff officers of each regiment, separate battalion or battery; and the said muster rolls shall be filed in the office of the adjutant-general. (*As amended by chap.* 612 *of* 1865.)

Muster roll at.

§ 134. In addition to the annual inspection herein specified, there shall be six drills or parades of the national guard in each year, not less than three of which shall be by regiment or battalion, and at such times and places as the commander-in-chief, commandant of division, brigade, regiment or battalion, shall direct.

Drills or parades of national guard.

§ 135. The commanding officer, at any parade, may cause those under his command to perform any field or camp duty he shall require; and also to put under guard for the day or time of continuing such parade, any officer, musician or private, who shall disobey the orders of his superior officer, or in any way interrupt the exercises of the day; also, all other

Powers and duties of commander at parades.

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persons who shall trespass on the parade ground, or in any way or manner interrupt or molest the orderly discharge of duty of those under arms; and also may prohibit and prevent the sale of all spirituous liquors within one mile of such parade or encampment; and also, in his discretion, all hucksters or auction sales, or gambling may be abated as nuisances.

Company drills.

§ 136. In addition to the drills and parades above specified, the commanding officers of companies may require the officers, non-commissioned officers, musicians and privates of their companies to meet for company drill and parade once in each month, from November to May, and so much oftener as a majority of the members of such company shall prescribe in and by the by-laws for the government of the same.

No parades to be held on election days, except, &c.

§ 137. No parade or rendezvous of the national guard shall be ordered on any day during which a general or special election shall be held, nor within five days previons to such election, except in cases of riot, invasion or insurrection or of imminent danger thereof; and if any officer shall order any such parade or rendezvous, he shall forfeit and pay to the people of this State the sum of five hundred dollars.

Notice to parade, how issued.

§ 138. For the purpose of warning the non-commissioned officers, musicians and privates to any parade, encampment, or place of rendezvous, the commandant of each company shall issue his orders, under his hand, to his non-commissioned officers, or to such of them as he may deem proper, requiring them respectively to warn all the non-commissioned officers, musicians and privates of his company to appear at such parade, encampment, or place of rendezvous, armed and equipped, according to law and regulation.

Notice, how served.

§ 139. Each non-commissioned officer, to whom such order shall be directed, shall warn every person whom he shall be therein required to warn, by reading the orders, or stating the substance thereof in the hearing of such person; or in case of his absence,

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by leaving a notice thereof at his usual place of abode or business, with some person of suitable age and discretion, or by sending the same to him by mail, directed to him at the post-office nearest his place of residence.

Officer to make returns.

§ 140. Such non-commissioned officer shall make a return to his commandant, in which he shall state the names of all persons by him warned, and the manner of warning them respectively, and shall make oath to the truth of such return, which oath shall be administered by the commandant, and certified by him on the warrant or return.

Commandant to deliver returns

§ 141. Such commandant shall deliver the return, together with his own return of all delinquencies, to the president of the proper court-martial.

Returns to be evidence.

§ 142. The return of such non-commissioned officer, so sworn to and certified, shall be as good evidence, on the trial of any person returned as a delinquent, of the facts therein stated, as if such officer had testified to the same before the court-martial on such trial.

Commandants of companies to make returns of delinquent non-commissioned officers.

§ 143. Every commandant of a company shall make the like return, upon honor, and with like effect, of every delinquency and neglect of duty of his non-commissioned officers, either in not attending on any parade or encampment, or not executing or returning a warrant to them directed, or not obeying the orders of their commanding officers; and also the names of every non-commissioned officer, musician or private who shall refuse or neglect to obey the orders of his superior officer, or to perform such military duty or exercise as may be required, or depart from his colors, post or guard, or leave the ranks without permission from his superior officer.

Commissioned officer may warn without warrant.

§ 144. Any commissioned officer of a company may, without a warrant, warn any or all of the members of his company to appear at any parade, encampment or place of rendezvous. Such warning may be given by him, either personally or by leaving or affixing a notice in the same manner as if given

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Certificate.

by a non-commissioned officer; and his certificate, upon honor, shall be received by any court-martial as legal evidence of such warning.

Evidence may be given in the absence of proper return.

§ 145. Nothing in the provisions of this act shall be so construed as to preclude, in the absence of a proper return, the giving in evidence, at any court-martial upon trial for delinquencies, neglects of duty or offense whatsoever, matters of facts which go to substantiate the charge or offense; but all such proof shall be received under the usual rules of evidence in courts of justice.

Terms of service.

*§ 146. Every non-commissioned officer, musician and private of the national guard of this State, shall be holden to do duty therein for the term of seven years from his enlistment, unless disability after enlistment shall incapacitate him to perform such duty, or he shall be regularly discharged by the commandant of his regiment; all general and staff officers, all field officers, all commissioned and non-commissioned officers, musicians and privates shall be exempt

Exemption from jury duty.

from jury duty during the time they shall perform military duty.† No non-commissioned officer, musician or private in the national guard shall be discharged from service except for physical disability or expira-

Discharges.

tion of term of service. Discharges for physical dis-

10 Johns., 100.

ability shall be given only upon the certificate of the regimental surgeon; and no member of any company shall be discharged from service except upon the cer-

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* See note to section 1, *ante*.

† Original section 146 contained, among other things, the following, viz.: "All general and staff officers, all field officers and all commissioned and non-commissioned officers, musicians and privates of the military forces of this State shall be exempt from jury duty during the time they shall perform military duty, and from the payment of highway taxes, not exceeding six days in any one year; and every such person not assessed for highway taxes shall be entitled to a deduction in the assessment of his real and personal prop-

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tificate of the commanding officer of his company, that such member has turned over or satisfactorily accounted for all property issued and charged to him. Commanding officers of regiments shall make returns to the adjutant-general on the first day of January and July of each year, of all discharges granted by them during the previous six months, giving names and grades of the persons so discharged, and the causes for which discharged. (*As amended by chap.* 334 *of* 1864, *and by chap.* 612 *of* 1865.)

Notices, warrants or summons, how served.

§ 147. All notices, warrants or summons for officers, non-commissioned officers, musicians and privates of any company or troop, to attend a drill, improvement meeting or court-martial, may be served either personally or by leaving a written or printed notice, containing the substance of such notice, warrant or summons, at the dwelling house, store, counting house or usual place of business of the person to be notified, warned or summoned, with some person of suitable age and discretion; and any officer, non-commissioned officer, musician or private, may also be warned to attend any parade, encampment or drill, by inclosing a notice, directed to him at his place of residence, by mail, directed to him at his nearest post-office, at least five days before the service required of him.

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erty to the amount of five hundred dollars. And every person who shall have served seven years, and shall have been honorably discharged, as required by this section, shall forever after, so long as he remains a citizen of this State, be exempt from two days' highway taxes in each year; and if a resident of any city of this State, he shall forever be entitled to a deduction in the assessment of his real and personal property, to the amount of five hundred dollars each year, etc." It has been decided by the attorney-general that those who enlisted prior to the amendments of said section 146 are entitled to the benefits above set forth, notwithstanding that such amendments leave out the above provisions as to taxation.

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Officers and non-commissioned staff officers to be warned same as privates.

§ 148. The officers and non-commissioned staff officers of each regiment shall be warned to attend any parade or drill in the same manner as is prescribed by law for the warning of the privates of any company, and the commanding officer of each regiment may designate and order any or all of the non-commissioned staff officers of the regiment to perform that duty, who shall make return thereof to the commanding officer, or the adjutant of the regiment, in the same manner, and under the same penalties for delinquencies, as are by law imposed on non-commissioned officers of companies for similar delinquencies.

Orders for encampment to be published and notice to be given to inspector-general.

§ 149. All orders for encampment, inspection and review shall be published at least twenty days previous to such parade, in such manner as the commandant of the brigade shall direct, and notice thereof shall at the same time be given to the inspector-general; and all commanding officers of regiments, battalions or companies, may, on any parade, read brigade, regimental or battalion orders, and notify their several commands to appear as specified in said brigade or regimental order for the purposes therein contained, which notice shall be a sufficient warning to all persons present.

Fines for neglecting to appear on parade.

§ 150. Every officer, non-commissioned officer, musician and private of any uniformed company, who shall unnecessarily neglect to appear on the days at the time and place appointed for such duty, agreeably to the provisions of this act, shall be subject to such fines and penalties as are hereinafter provided.

Commanding officer may require subordinate officers to meet for exercise and improvement.

§ 151. The commanding officer of any brigade, regiment or battalion, in addition to the rendezvous above prescribed, may require the commissioned officers and non-commissioned officers to meet for exercise and improvement at such times and places as he shall appoint; and he may require them to appear with such arms and accoutrements as he may

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prescribe; said officers shall thereupon be formed into a corps of instruction, without regard to rank, and shall be thoroughly instructed in the manual of arms, the school of the soldier and company, and in such other theoretical and practical details of duty as the said commanding officer shall deem proper.

Reviews.

§ 152. Each commandant of division may review either one of the brigades in his division in each year; and he shall require the officers of the division staff, armed and equipped as the law and regulation direct, to accompany him.

Commandant of brigade to attend reviews.

§ 153. The commandant of each brigade shall attend, with the officers of the brigade staff, armed and equipped as the law and regulation direct, the annual inspection and review of the several regiments and battalions in his brigade.

Brigade inspector to be furnished with a return; what to contain.

§ 154. It shall be the duty of commandants of companies, at the annual inspection, to furnish the brigade inspector with a return which shall show:

1. The number of commissioned, non-commissioned officers, musicians and privates of his company or troop present on parade, designating the number of each.

2. The number of such company absent from parade.

3. The uniforms, arms and equipments inspected.

4. The number of uniforms belonging to said company or troop.

5. The arms and equipments in the possession of said company or troop.

Return to be furnished within twenty days

§ 155. It shall be the duty of each commandant of a regiment or battalion, within twenty days after the annual inspection, to furnish the brigade inspector with a return of the field and staff officers, non-commissioned staff officers, musicians of said regiment or battalion, present and absent, armed and equipped and uniformed according to law and regulation.

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Brigade inspector to attend encampment on first day and take command as drill officer.

§ 156. At all encampments, the brigade inspector shall attend on the first day thereof, to superintend the exercises and maneuvers, and to introduce the system of discipline which is or shall be prescribed by law; and on such day he shall take the command as drill officer, so far as shall be necessary to the execution of those duties; and he shall also make an annual inspection at such times as the commanding officer of the brigade shall order and direct.

Copy return to adjutant-general.

§ 157. It shall be the duty of the brigade inspector to transmit a copy of the inspection returns annually to the adjutant-general, and a duplicate thereof to the inspector-general, within thirty days after the inspection shall be made. In order to secure a proper accountability for each member, and also for the security of the property issued by the State, the annual inspection and muster rolls of each company and regiment shall be examined and compared by the inspector-general with the muster-in rolls, and the last muster and inspection rolls of the several companies, and the annual fund provided by section one hundred and eighty-three of chapter four hundred and seventy-seven, laws of eighteen hundred and sixty-two, as amended by this act, shall be allowed to such regiments, battalions and batteries only as shall make a proper return of such rolls; and upon the certificate of the inspector-general that such rolls make a satisfactory exhibit of the number of the organization and of the State property issued thereto. There shall be allowed to brigade inspectors as compensation for the annual inspection and muster, and for making proper rolls and returns thereof, the sum of four dollars for each company so inspected and mustered, the same to be allowed and paid in the same manner as other military accounts, upon the certificate of the inspector-general. (*As amended by chap.* 612 *of* 1865, *and by chap.* 809 *of* 1866.)

Inspector-general to examine muster rolls, &c.

Pay to brigade inspectors.

Statement of reviews and inspection to be

§ 158. It shall be the duty of the brigade inspector, within thirty days after the annual review in each

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year, to transmit to the adjutant-general a statement of the reviews and inspection of the several regiments or battalions in his brigade, attended by the commanding officer of division, accompanied by division staff, armed and equipped and uniformed according to law and regulation, and also the commanding officer of brigade, with the brigade staff, armed and equipped according to law and regulation. transmitted to adjutant-general.

§ 159. In case any general officer or any member of his staff shall neglect to attend such inspection and review, it shall be the duty of the adjutant-general to require such officer to render an excuse in writing to the commander-in-chief for his delinquency. If the commander-in-chief shall deem such excuse insufficient, he shall order a court-martial to try the delinquency. Proceedings when general officers or members of staff neglect to attend inspection.

§ 160. Each uniform company may form by-laws, rules and regulations, not inconsistent with this act, for the government and improvement of its members in military science; and when approved of by two-thirds of all the members belonging to any such company, shall be binding; but may be altered from time to time as may become necessary. Company may form by-laws.

§ 161. For violations of the by-laws of any uniformed company, the non-commissioned officer, musician or private offending, by a vote of the company, three-fifths being present, may be expelled from the company; and upon the action of the company being confirmed in orders by the commandant of the regiment, the name of such person or persons shall be stricken from the roll of such company, his certificate of membership shall be surrendered and canceled, and he or they shall cease to be a member or members of such company; and his or their term of service in said company shall not be allowed under the provisions of this act. Penalty for violation of by-laws.

§ 162. The adjutant-general shall prescribe the form of enlisting orders to be furnished and used by Adjutant-general to prescribe form of

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enlisting orders.

each company or troop in recruiting or filling up such company or troop with its required number.

Powers and duties of commandants of divisions.

§ 163. The commandants of divisions shall discharge the duties, possess the powers, and be liable to the penalties pertaining to their office, as granted by law or military custom, provided that no division parades, except of the first division, or in case of invasion, insurrection, or to aid the civil authorities, shall be ordered without the consent of the commander-in-chief.

Commander-in-chief may order parades.

§ 164. The commander-in-chief may order such parades or drills of the uniformed troops, or any part of them, as he shall deem proper.

Camps of instruction.

§ 165. There shall be a camp of instruction once in each year after the present year, in each of the division districts of this State, if the commander-in-chief shall so order, to be held at such time and in such manner as he shall direct; and the commander-in-chief is hereby authorized and empowered to order such companies and regiments from such division districts, respectively, to attend such camps as he may deem proper, but in such manner that all the companies and regiments therein shall be ordered to attend such camp from year to year in rotation, provided, always, that not more than ten thousand men in any one year shall be ordered to attend said camps; and in case suitable ground cannot be found in any district for said camp, the same may be held in the adjoining district.

Camp to continue not more than ten days.

§ 166. Such camps shall continue for a period not exceeding ten days, and shall be governed by the rules and regulations of the army of the United States.

Commander-in-chief may order regiments, battalions, &c., to be stationed at forts for military instruction.

§ 167. The commander-in-chief is hereby authorized and empowered, at his discretion, to order such regiments, battalions, batteries, or companies as he shall deem proper, and without regard to arm, not, however, exceeding one thousand men in any one year, to be stationed at such forts or other places as

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may be furnished by the United States government, or as may be convenient for that purpose within the State of New York, for a period not exceeding ten days in any one year, for instruction in the management of heavy artillery for sea and lake coast defense under such instructors as he shall assign for that purpose.

Officers to be designated to command camps, forts &c.

§ 168. The commander-in-chief shall designate commissioned officers of proper rank, without regard to military districts, to command such camps, forts or other places, and shall assign such other officers, also without regard to military districts, to duty as field and staff officers and instructors, as may be required to fully officer such camps and forts.

Arms, ordnance and ammunition.

§ 169. The commissary-general of ordnance shall furnish, upon the requisition of the commander-in-chief, such arms, ordnance and ammunition as may be necessary for the use of the military forces so encamped or stationed.

Tents, camp equipage and necessary transportation to be furnished.

§ 170. The quartermaster-general shall, upon the requisition of the commander-in-chief, furnish such tents, camp equipage, or other State property as may be required for the use of the military forces so encamped or stationed, and shall also furnish the transportation necessary for conveying said forces to and from such camps or stations.

Subsistence.

§ 171. The commissary-general of subsistence shall, upon the requisition of the commander-in-chief, provide the subsistence necessary for said forces, such subsistence to conform in price and quantity to the ration prescribed by the general regulations for the army of the United States, and to be issued in kind.

Commander-in-chief to draw warrant upon state treasurer for necessary moneys.

§ 172. The commander-in-chief is hereby authorized and empowered to draw his warrant upon the State treasury for such sum as shall be required by the engineer and quartermaster of said camps, forts or stations, in laying out and preparing the ground designated for such purpose, and in furnishing quarters for said forces and for the services of the officers,

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instructors and privates ordered to attend the same; also for all necessary expenses of said forces, including transportation and subsistence; such expenses to be audited by a board to consist of the commander-in-chief, comptroller, State treasurer and inspector-general.

Expenses to be audited.

OF COMPENSATION FOR MILITARY SERVICES.

Pay, rations, &c., in time of war.

§ 173. The military forces of this State, when in the actual service of the State in time of war, insurrection, invasion or imminent danger thereof, shall, during their time of service, be entitled to the same pay, rations and allowances for clothing, as are or may hereafter be established by law for the army of the United States.

Pay when ordered to attend encampments.

§ 174. There shall be paid to such officers, non-commissioned officers and privates as shall be specially ordered to attend encampments, and sea and lake coast defense duty, in pursuance of the provisions of this act, not to exceed the following sum each, for every day actually on duty:

1. To all non-commissioned officers, musicians and privates, one dollar.

1. To all commissioned officers of the line below the rank of captain, two dollars.

3. To all commanding officers of companies, three dollars.

4. To all field officers below the rank of colonel, four dollars.

5. To all commanding officers of regiments, five dollars.

6. To all regimental staff officers, two dollars and fifty cents, and to all non-commissioned staff officers, one dollar and fifty cents.

7. To all brigadier-generals, six dollars.

8. To all brigade staff officers, four dollars.

9. To all major-generals, eight dollars.

10. To all division staff officers, five dollars.

11. All mounted officers, and all members of any company of cavalry or artillery, mounted or equipped, shall receive one dollar per day for each horse actually used by them.

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12. To each military storekeeper, such sum, not exceeding twenty-five dollars per annum, as the commander-in-chief shall think proper to allow.

Pay of staff of the commander-in-chief.

§ 175. The staff of the commander-in-chief and the assistants in the several departments, in lieu of all compensation and allowances now provided by law in time of peace, when upon actual duty under the provisions of this act, either at drills, parades, encampments, lake and sea coast defense duty, or otherwise, shall receive such reasonable and just compensation, not exceeding the full pay and allowances of officers of the same rank in the volunteer service in the United States, as the commander-in-chief shall deem proper, and in no event to exceed the sum of twenty-five hundred dollars per annum, together with their necessary expenses and those of their departments, to be paid by the State upon the certificate of the commander-in-chief, showing a detailed statement of such services and expenses. (*As amended by* § 1, *chap.* 809 *of* 1866.)

Pay of certain clerks, &c., in case of war.

§ 176. In case of war, insurrection, rebellion or invasion, or imminent danger thereof, when the military forces and volunteers of the State of New York, or any part thereof, shall be in the actual service of the State, or in the service of the United States, the staff of the commander-in-chief, while on duty, the assistants and clerks in the several staff departments, and such other officers as may be detailed by the commander-in-chief for the performance of any duties connected with the recruiting, mustering, enrolling, equipping, arming, organizing, paying, inspecting, providing and administering justice for such forces and volunteers, shall, in lieu of all other allowances under this act, receive such reasonable and just compensation, not exceeding the full pay and allowances of officers of the same rank in the volunteer service of the United States, as the commander-in-chief shall deem proper, together with their necessary expenses and those of their departments, to be paid by the

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State upon the certificate of the commander-in-chief, showing a detailed statement of such services and expenses. (*As amended by chap.* 612 *of* 1865.)

Clerks in departments of staff officer.

§ 177. Such clerks shall be employed in the several departments of the general staff of this State as shall be actually necessary for the public service, in the opinion of the commander-in-chief, and they shall receive, for the time they may be actually necessarily employed, such compensation as the commander-in-chief shall prescribe, not exceeding, however, in any case, the rate of twelve hundred dollars per annum.

Pay of.

Commanding officer of uniformed companies to make returns.

§ 178. The commanding officer of every uniformed company which shall have been ordered into camp, or to perform sea and lake coast defense duty, in accordance with the provisions of this act, shall, at the close of the term for which such company shall have been ordered to such camp or duty, make out an alphabetical list of the members of his company who shall have appeared and performed such duty, uniformed, armed and equipped, as the law and regulations direct, and shall set opposite to each name the number of days each shall have performed duty, and the amount of pay each is entitled to receive for such service and deliver the same, certified on oath to be correct and true, to the commanding officer of the camp or post, who shall immediately cause the same to be transcribed in a book or books to be kept by him for that purpose; such company commandant shall also set forth, opposite to the name of each member of his company, whether such member is indebted to the State in any and what amount on account of his uniform and equipments.

Commanding officer of camp or post to make returns.

§ 179. The commanding officer of the camp or post shall, also, at the close of the time for which each company, battery, battalion or regiment shall have been ordered to attend for duty thereat, make or cause to be made a complete roster or list of all commissioned officers and non-commissioned staff officers who shall have appeared and performed duty at such parade or

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encampment, uniformed, armed and equipped, as the law and regulations direct, and shall set opposite to each name the number of days each shall have performed duty at such encampment or post, and the amount of pay each is entitled to receive for such service, and shall immediately cause the said list to be transcribed in a book or books to be kept by him for that purpose.

Commander-in-chief to draw warrant upon comptroller.

§ 180. The commander-in-chief shall draw his warrant upon the comptroller for the amount which shall become due to officers, non-commissioned officers and privates, for services rendered at the drills and encampments for which payment is allowed by this act.

Duties of paymaster-general and of paymasters.

§ 181. The paymaster-general, or a division or brigade paymaster under his directions, shall, once in each year, visit the different regimental districts of this State, and shall pay to the officers, non-commissioned officers and privates, such sums as they may be entitled to receive therefor under this act.

Commander-in-chief may prescribe more convenient rules and regulations.

§ 182. The commander-in-chief shall have power to prescribe such further rules and regulations to provide for the more convenient payment of all sums which may become due to officers, non-commissioned officers and privates, under the provisions of this act; and the paymaster-general, under the direction of the commander-in-chief, shall prepare the necessary forms and pay rolls, and cause the same to be transmitted to the commandants of such regiments, camps and posts.

Forms, &c.

OF THE REGIMENTAL FUND AND REGIMENTAL BOARDS OF AUDITORS.

Regimental, battalion and battery fund.

§ 183. The comptroller shall annually draw his warrant upon the treasurer in favor of the county treasurer of each county for the sum of five hundred dollars for each regiment, and the sum of two hundred and fifty dollars for each battalion, and the sum of one hundred dollars for each battery, certified by the adjutant-general, to be organized according to

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the provisions of this act within the county; or in case any regiment, battalion or battery is organized in two or more counties, then the comptroller shall draw his warrant in favor of such county treasurer as the adjutant-general may in his certificate direct, which sums, together with the fines collected from delinquent officers, non-commissioned officers, musicians and privates, shall constitute the military fund of such regiment, battalion or battery. (*As amended by* § 5, *of chap.* 425 *of* 1863, *and* § 1, *chap.* 809 *of* 1866.)

Regimental fund.

Quorum of officers for business.

§ 184. There shall be a board of officers in each regiment which shall consist of the commanding officer of the brigade, who shall be president thereof, and of the field officers of the regiment and the senior captain therein, any three of whom shall form a quorum for business, the commanding officer of the brigade being one.

Commandants of brigades may convene board of officers.

§ 185. The commandant of each brigade shall, from time to time, as he shall deem necessary, convene the board of officers of each regiment created by this act.

Duties of board.

§ 186. Such board, when so convened, shall audit all just claims on the military fund of such regiment for contingent expenses of the regiment, and shall make their order on the proper county treasurer, which shall require him to pay such order out of any money in his hands belonging to the military fund of such regiment.

Printing and publishing.

§ 187. Such board may also direct such printing and publishing to be performed and executed as shall be necessary for the best interest of the regiment and service; the members of such board shall be entitled to receive for each day's service, as such members, the sum of two dollars, for not more than three days in any one year, such sum to be certified and paid in the same manner. Such board shall enter their proceedings, from time to time, in a book to be kept for that purpose by each regiment.

Pay of members of board.

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§ 188. All county and city treasurers shall report to the brigadier-general, within the bounds of whose brigades he may reside, the amount of all moneys received by them, respectively, by the first days of April and December, annually, and the balance then remaining in their hands, and the number of the regiment to which the same belongs.

County and city treasurers to make annual reports

OF THE COURTS OF INQUIRY AND COURTS-MARTIAL.

Of the Courts of Inquiry and Courts-Martial for the Trial of Officers.

§ 189. Courts of inquiry may be instituted by the commander-in-chief, or the commanding officer of division or brigade, in relation to those officers for whose trial they are authorized to appoint courts-martial, for the purpose of investigating the conduct of any officer, either by his own solicitation, or on a complaint or charge of improper conduct, degrading to the character of an officer, or for the purpose of settling rank; but no such court shall consist of more than one officer, who may, if approved of by the officer ordering the court, require a judge-advocate to attend such court in taking testimony, and in investigating any complaint that may come before such court.

Courts of inquiry.

19 Johns., 7.

§ 190. Such court shall, without delay, report the evidence adduced, a statement of facts, and an opinion thereon, when required to the officer instituting such court, who may in his discretion thereupon appoint a court-martial for the trial of the officer whose conduct shall have been inquired into.

Evidence to be reported.

§ 191. Every court-martial for the trial of a major-general shall be ordered by the commander-in-chief, and shall consist of five officers, any three of whom shall constitute a quorum.

Court-martial for trial of major-general.

§ 192. Every court-martial for the trial of a brigadier-general shall be ordered by the commander-in-chief, and shall consist of five officers, any three of whom shall constitute a quorum.

For trial of brigadier-general.

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For trial of commissioned officers.

§ 193. All other courts-martial for the trial of commissioned officers shall consist of three officers, and shall be ordered, if for the trial of officers above rank of captain, by the commanding officer of division, and for all other officers, by the commanding officer of brigade.

Officers not to be brought to trial unless certain conditions are complied with.

7 Johns., 96.

§ 194. No officer arrested shall be brought to trial, unless a copy of the charges and specifications, certified by the officer ordering the arrest, shall be delivered to him, or left at his usual place of abode, within three days after his arrest; nor unless the officer ordering such court-martial shall have ordered the same within thirty days after receiving notice of the arrest, and a copy of the charges and specifications; nor until ten days after a copy of a list of the names of the officers detailed to form the court shall have been delivered to the officer arrested, or left at his usual place of abode.

Vacancies in court.

§ 195. The officer ordering the court may, at any time, supply any vacancy that, from any cause, may happen therein.

Challenges

§ 196. If the officer accused shall have any cause of challenge to any member of such court, he shall make the same at the time and in the manner provided by the military laws of the United States service and the practice of courts-martial. The arraignment of the accused, the proceedings, trial and record shall, in all respects, conform to the requirements of the United States law of court-martial. (*As amended by chap.* 612 *of* 1865.)

Oath.

§ 197. After the court shall be assembled, and after all challenges, if any are made, shall have been determined, the judge-advocate, whether commissioned or special, shall administer to each member the following oath: "You do swear (or affirm) that you will faithfully try and determine, according to evidence, the matter now before you, between the State of New York and the prisoner to be tried, and that you will duly administer justice

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according to the established rules of military law for the government of the military forces of this State, so help you God." (*As amended by chap.* 612 *of* 1865.)

Sentence to be kept a secret.

§ 198. Every judge-advocate, whether commissioned or special, and every member of a court-martial, shall keep secret the proceedings and sentence of the court until the same shall be approved or disapproved according to law; and shall keep secret the vote or opinion of any particular member of the court, unless required to give evidence thereof by a court of justice. (*As amended by chap.* 612 *of* 1865.)

Sentence, extent of, in time of peace.

§ 199. The sentence of any such court-martial shall be according to the nature and degree of the offense, and according to military usage, but shall not extend further, in time of peace, than cashiering the officer convicted, and disqualifying him from holding any office in the militia of this State, and imposing a fine not exceeding one hundred dollars.

Proceedings to be delivered to officer ordering the court.

§ 200. The proceedings and sentence of every court-martial shall, without delay, be delivered to the officer ordering the court, who shall approve or disapprove thereof, within fifteen days thereafter, and shall give notice of his approval or disapproval to the president of such court-martial and to the arresting officer, and he may, at his discretion, publish the sentence, as approved or disapproved, in orders; but no part of such sentence shall be executed until after the time allowed for appeal has expired.

To be transmitted to adjutant-general.

§ 201. He also shall transmit such proceedings and sentence, and his approval or disapproval thereof, to the adjutant-general, to be kept in his office.

Appeals.

§ 202. The right of appeal to the commander-in-chief, as it now exists by military usage, is reserved; but no appeal shall be received, unless made within twenty days after the decision appealed from is made known to the person appealing.

Pay of officers of court-mar-

§ 203. There shall be allowed and paid out of the treasury, on the certificate of the president and the

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tial and of inquiry.

judge-advocate, on the approval of the judge-advocate-general, to each division, brigade and special judge-advocate, and to the president and members of any court of inquiry or court-martial for the trial of officers, two dollars for each day actually employed on duty; and the like compensation to every marshal appointed by any such court for every day employed in the execution of the duties required of him. In important cases a reasonable compensation may be paid to any stenographer employed by the court, whose services shall be certified in like manner. (*As amended by chap.* 612 *of* 1865.)

See note to section 99, *ante*.

Stenographer's pay.

Accounts to be audited by comptroller.

§ 204. The accounts of all persons who, under this article, are entitled to be paid out of the treasury, shall be audited by the comptroller, who shall, on the application of the governor, draw his warrant on the treasurer for such sums of money as may be requisite in the execution of the provisions of this act; and may require the chief of each staff department to account quarterly for all money received by him for the purposes connected with his department.

Of Regimental and Battalion Courts-Martial.

Regimental or battalion court-martial.

§ 205. The commandant of each brigade may at any time appoint a regimental or battalion court-martial for any regiment or battalion in his brigade, to consist, if practicable, of a field officer or captain.

Appointment of court to be published.

§ 206. The appointment of said court shall be published in orders at least three weeks previous to the convening of the court; and the officer appointing said court shall fix the day on which it shall convene, and when convened, the court may adjourn from time to time as shall become necessary for the transaction of business, but the whole session of the court, from the day on which it shall convene until its dissolution, shall not exceed three weeks.

Vacancies in court.

§ 207. In case any vacancy shall happen in the court, or a new court shall be required, the officer ordering the court, or his successor in command, may fill such vacancy or order a new court.

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§ 208. The officer constituting such court, before he shall enter on his duties as such, shall take the following oath:

"I, , do swear that I will well and truly try and determine, according to evidence, all matters between the people of the State of New York and any person or persons which shall come before the regimental (or battalion) court-martial to which I have been appointed." Oath.

§ 209. Such oath shall be taken by the president, on or before the day on which the court shall convene, before a justice of the county in which he may reside, or a field officer of his regiment or battalion; and it shall be the duty of such justice or field officer to administer the oath without fee or reward. Oath to be taken by president of court.

§ 210. Such court shall direct a non-commissioned officer, or other fit person or persons, to be by him designated, to summon all delinquents and parties accused to appear before the court, at a time and place to be by him appointed, which service shall be personal, or by leaving such summons at the residence of such parties. Delinquents to be summoned by officer appointed for that purpose.

7 Johns., 97.

§ 211. Such non-commissioned officer, or other person or persons so designated, shall make the like return, and with like effect, as commissioned and non-commissioned officers are authorized and required to make, in cases of warning to a company or regimental parade, and shall be subject to the like penalties for neglect of duty. Officer to make return.

§ 212. The court, when organized, shall have the trial of all offenses, delinquencies and deficiencies, in the regiment or battalion for which it shall have been called, and shall have power to impose and direct to be levied all the fines to which non-commissioned officers, musicians or privates are declared to be subject by the provisions of this act. Powers and duties of court.

20 Johns., 243
11 Johns., 150

§ 213. From the sentence of any such court, imposing a fine for any offense, delinquency or deficiency, an appeal, if made within twenty days, shall be allowed to the officer instituting the court, or to his Appeals.

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successor in command, who may remit or mitigate such penalty or fine.

Compensation of officers of court

§ 214. There shall be allowed and paid out of the military fund of said regiment:

1. To the officer constituting said court, a sum equal to one day's pay for field duty for each day he may be actually employed in holding the court or engaged in the business thereof, or in traveling to or from the court, allowing thirty miles for a day's travel.

2. To the non-commissioned officer or other person who shall have summoned delinquents to appear before the court, one dollar and twenty-five cents for each day he may have been necessarily so employed, and the same sum for each day of his attendance on the court.

3. Each officer to whom a warrant for the collection of fines may be directed, shall be entitled to the same fees, and be subject to the same penalties for any neglect, as are allowed and provided for on executions issued out of justices' courts.

4. For all other services and commitments under this act, the sheriff, jailer and constables executing the same shall be entitled to the like fees as for similar services in other cases.

Moneys arising from fines, &c., how disposed of.

§ 215. All fines and penalties imposed by any regimental or battalion court-martial, shall be paid, by the officer collecting the same, to the treasurer of the county within which the officer instituting the court may reside, and shall belong to the military fund of such regiment.

OF THE IMPOSITION OF PENALTIES AND FINES FOR VIOLATING THE PROVISIONS OF THIS ACT.

Fines of commissioned officer for neglecting to provide himself with uniform.

§ 216. In time of peace, every commissioned officer, for disobedience of orders, neglect or ignorance of duty, unofficerlike conduct or disrespect to a superior officer, or for neglecting to furnish himself with a uniform and equipments within six months after receiving his commission, shall be arrested and brought to

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trial before a court-martial, who may, on conviction, sentence him to be cashiered, incapacitated from holding any military commission, or fined to an amount not exceeding one hundred dollars, or to be reprimanded or may sentence him to all or either of such penalties, in their discretion.

Fines for refusing to pay over moneys.

§ 217. Every commissioned officer refusing to pay over moneys in his hands, as is directed by the provisions of this act, shall be liable to be tried and cashiered, or otherwise punished therefor, by a court-martial.

Fines.

§ 218. Every commissioned officer, and every non-commissioned officer, musician and private, shall, on due conviction, be subject for the following offenses, to the fines thereto annexed:

For non-appearance on parade.

1. Every non-commissioned officer, musician and private, for non-appearance, when duly warned or summoned, at a company parade, a fine of two dollars; at a regimental or battalion parade or encampment, not less than three nor more than six dollars; and at a place of rendezvous, when called into actual service, a sum not exceeding twelve months' pay, nor less than one month's pay.

For non-attendance at parade or encampment, or disobedience of orders.

2. Every commissioned officer, for non-attendance at any parade or encampment, and every such officer, non-commissioned officer, musician and private, neglecting or refusing to obey the orders of his superior officers on any day of parade or encampment, or to perform such military duty or exercise as may be required, or departing from his colors, post or guard, or leaving his place or ranks without permission, a fine not more than one hundred nor less than five dollars.

For not obeying warrant, or making return.

3. For neglecting or refusing to obey any order or warrant to him lawfully given or directed, or to make a proper return thereof, if such return be necessary, or making a false return, or neglecting or refusing when required, to summon a delinquent before a court-martial, or duly to return such summons, a

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fine not more than one hundred nor less than five dollars.

Penalties of officers for various offenses.

§ 219. Every commissioned officer, for neglecting or refusing to act as such when duly elected and commissioned, may be sentenced to pay a fine not less than ten dollars; every non-commissioned officer, for neglecting or refusing to act as such, when duly appointed and warranted, may be sentenced to pay a fine not less than five dollars; and every non-commissioned officer, for neglect of duty or disorderly or unofficerlike conduct, in addition to other penalties, may be reduced to the ranks by the commandant of the company, with the approbation of the commandant of the regiment or battalion.

Unlawful discharge of fire-arms.

§ 220. Every non-commissioned officer, musician or private, who shall unlawfully discharge any fire-arms within two miles of any parade, on the day thereof, shall be sentenced to pay a fine of one dollar.

Retaining commission of subaltern more than thirty days.

§ 221. Any commissioned officer who shall retain a commission received by him for any subaltern for more than thirty days, without giving notice by mail or otherwise to the person entitled to it, shall be liable to pay a fine not exceeding twenty-five dollars, to be imposed by the proper court-martial on the complaint of any officer interested. In addition to the penalties imposed by any of the provisions of this act, every commissioned and non-commissioned officer, musician and private of a company or troop, or any other person who shall appear at any parade or encampment wearing any personal disguise or other unusual or ludicrous article of dress, or any arms, weapons or other implements not required by law, and calculated to excite ridicule, or to interrupt the orderly and peaceable discharge of duty by those under arms, shall be liable to a fine of not more than twenty-five and not less than five dollars, to be imposed by the proper court-martial.

Penalty for appearing in improper dress, &c. at parade.

15 Wend., 451

Court may excuse delinquents in certain cases

§ 222. The court-martial by which any delinquent is tried may excuse such delinquent, if it shall be

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made satisfactorily to appear to the court that he has a reasonable excuse for such delinquency.

Action cannot be maintained against members of courts-martial.

§ 223. No action shall be maintained against any member of a court-martial, or officer, or agent acting under its authority, on account of the imposition of a fine, or the execution of a sentence on any person, if such person shall have been returned as a delinquent and duly summoned, and shall have neglected to appear and render his excuse for such delinquency, or show his exemption before such court.

7 Johns., 96. 19 Johns., 7. 11 Johns., 83, 150. 10 Johns., 100

Proceedings against officers in courts of this State.

§ 224. When a suit or proceeding shall be commenced in any court by any person against any officer of this State, for any act done by such officer in his official capacity, in the discharge of any duty under this act, or against any person acting under authority or order of any such officer, or by virtue of any warrant issued by him pursuant to law, or against any collector or receiver of taxes, the defendant may require the plaintiff in such suit to file security for the payment of the costs that may be incurred by the defendant in such suit or proceeding, and the defendant, in all cases, may plead the general issue, and give the special matter in evidence, and in case the plaintiff shall be non-prossed or nonsuited, or have a verdict or judgment against him, the defendant shall recover treble costs.

Security for costs.

Pleading general issue.

Treble costs.

OF THE COLLECTION OF FINES AND PENALTIES.

Warrant for collection of fines.

§ 225. For the purpose of collecting such fines as may be imposed by any court-martial authorized by this act, the president of the court shall, within thirty days after the fines have been imposed, make a list of all the persons fined, designating the company to which they respectively belong, and the sums imposed as fines on each person, and shall draw his warrant, under his hand and seal, directed to any marshal, sheriff or constable of any city or county (as the case may be), thereby commanding him to levy such fine or fines, together with the costs of the

7 Johns., 96. 19 Johns., 7. 7 Hill, 51. 4 Hill, 207.

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No property exempt.

goods and chattels of such delinquents. No property shall be exempt from the payment of such fines,* *and in default of sufficient goods and chattels with which to satisfy the same, then to take the body of such delinquent and convey him to the common jail of such city or county. Payment of all fines imposed by any court-martial organized pursuant to the provisions of this act, for the trial of officers, may be enforced in like manner.* (*As amended by chap.* 612 *of* 1865, *and by* § 1, *chap.* 809 *of* 1866.)

Imprisonment for non-payment of fines.

Imprisonment for non-payment of fines. Jailer's duty.

§ 226. It shall be the duty of the jailer to whom such delinquent may be delivered, to keep him closely confined, without bail or mainprize, for two days, for any fine not exceeding two dollars, and two additional days for every dollar above that sum, unless the fine, together with the costs and the jailer's fees, shall sooner be paid; but no non-commissioned officer, musician or private shall be imprisoned for the non-payment of such fine or fines, for a period exceeding ten days. (*As amended by chap.* 612 *of* 1865.)*

Term of imprisonment.

Return of warrant. 4 Hill, 207. 19 Johns., 7. 7 Hill, 51.

§ 227. Every such marshal, sheriff or constable, to whom any list and warrant shall be directed and delivered, may execute the same by levying and collecting the fines within forty days from the receipt of such warrant, and make return thereof to the officers who issued the same. (*As amended by* § 8 *of chap.* 612 *of* 1865.)†

Warrants for the collection of fines may be renewed.

§ 229. Any warrant for the collection of fines, issued by virtue of this chapter, shall and may be renewed in the same manner that executions issued from justices' courts may by law be renewed.

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* Section 8 of chapter 612 of 1865, specially repeals original section 226 of chapter 477, as passed by the legislature April 23d, 1862; but section 1 of said chapter 612 of 1865, amends said section 226 so as to read as above inserted. Section 225 of chapter 477 of 1862, as amended by chapter 612 of 1865, was amended by section 1 of chapter 809 of 1866, by adding to said section so much of the same as is above set forth in italics, and by such amendment it is manifest that the legislature intended to retain in force section 226, as above set forth, notwithstanding the ambiguities contained in chapter 612 of 1865, relating to said last mentioned section.

† Section 228 is repealed by section 8 of chapter 612 of 1865.

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§ 230. The amount of any fines so collected shall be paid, by the officer collecting the same, into the county treasury, and shall form a portion of, and be credited to, the regimental fund of the regiment to which the person so fined belonged.*

Moneys collected to be paid to county treasurer.

§ 231. In addition to the bond now required by law to be given by the marshal, sheriff, constable or other officer, for the faithful discharge of his duties, such named officers shall execute a bond for the payment of all moneys by them collected, under the provisions of this act; and the sureties of such officers, hereby authorized to collect fines and penalties, shall be liable for any official delinquency under this act, such bonds to be approved by the county judge of each county.

Bonds to be executed.

GENERAL PROVISIONS APPLICABLE TO ALL COURTS-MARTIAL AND COURTS OF INQUIRY.

§ 232. The president of every court-martial, and of every court of inquiry, both before and after he shall have been sworn, and also the judge-advocate, if required, shall issue subpœnas for all witnesses whose attendance at such court may, in his opinion, be necessary in behalf of the people of this State, and also on application for all witnesses in behalf of any officer charged or accused, or persons returned as delinquent; and may direct the commandant of any company to cause such subpœna to be served on any witness or member of his company.

President of court-martial may issue subpœnas.

19 Johns., 7.

§ 233. The president of such court-martial, or the court of inquiry, shall have power to administer the usual oath to witnesses, and shall have the same power to compel attending witnesses to be sworn and testify, and to preserve order, as courts of common law jurisdiction; and all sheriffs, jailers and constables, are hereby required to execute any precept issued by such president or court for that purpose.

May administer oaths to and compel attendance of witnesses.

* See §§ 7 and 8 of chapter 485 of 1863, in a note to §§ 13, 14, 15, *ante*.

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Penalty of witness for refusing to appear after being subpœnaed.

§ 234. Every witness not appearing in obedience to such subpœna when duly served personally with a copy of the same, and not having a sufficient or reasonable excuse, shall forfeit to the people of this State a sum not less than ten nor more than fifty dollars; and the president of such court shall, from time to time, report to the district attorney the names of all such delinquent witnesses, together with the names and places of residence of the persons serving such subpœna, the better to enable him to prosecute for such forfeiture.

President may issue attachment in certain cases.

§ 235. Whenever it shall appear to the satisfaction of any court-martial or court of inquiry, by proof made before such court, that any person duly subpœnaed to appear as a witness before said court, shall have refused or neglected, without just cause, to attend as such witness, in conformity to such subpœna, and the party in whose behalf such witness shall have been subpœnaed shall make oath that the testimony of such witness is material, such court, or the president thereof, shall have power to issue an attachment to compel the attendance of such witness.

Attachment, how and by whom executed.

§ 236. Every such attachment shall be executed in the same manner as a warrant, and by any officer authorized to execute warrants, and the fees of the officers serving the same shall be paid by the person against whom the same shall have been issued, unless he shall show reasonable cause, to the satisfaction of such court, for his omission to attend; such costs shall be ascertained by the court, who may thereupon issue an execution for the collection against the person liable to pay the same, and which may be collected as other executions are collected, and by any officer authorized to collect executions issued from courts of justice.

Disorderly conduct in court.

§ 237. Any person or persons who shall be guilty of disorderly, contemptuous or insolent behavior in, or use any insulting or contemptuous or indecorous language or expressions to, or before any court-mar-

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tial or court of inquiry, or any member of either of such courts, in open court, intending to intercept the proceedings or to impair the respect, the authority of such courts, may be committed to the jail of the county in which said courts shall sit, by warrant under the hand and seal of the president of such court.

Warrant to commit to jail.

§ 238. Such warrant shall be directed to the sheriff or any or either of the constables and marshals of any such county, or any officer attending the court, and shall set forth the particular circumstances of the offense adjudged to have been committed; and shall command the officer to whom it is directed to take the body of such person and commit him to the jail of the county, there to remain without bail or mainprize, in close confinement for a time to be limited not exceeding three days, and until the officer's fees for committing and the jailer's fees be paid.

Sheriff to receive and keep offender until discharged by due course of law.

§ 239. Such sheriff shall receive the body of any person who shall be brought to him by virtue of such warrant, and keep him until the expiration of the time mentioned in the warrant, and until the officer's and jailer's fees shall be paid, or until the offender shall be discharged by due course of law, unless sooner discharged by any judge of a court of record, in the same manner and under the same rules as in cases of imprisonment under process for contempt from a court at law.

Absence of president.

§ 240. In the absence of the president of any court-martial, the senior officer present may preside, with all the powers of the president; and all the members of such court shall, when on duty, be in full uniform.

Marshals may be appointed.

§ 241. The president of any court-martial or any court of inquiry may appoint, by warrant under his hand and seal, one or more marshals.

Powers and duties of marshal.

§ 242. The marshals so appointed may not only perform the usual duties of such marshals, but may also execute all process lawfully issued by such president or court, and perform all acts and duties in this

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act imposed on and authorized to be performed by any sheriff, marshal or constable.

Proceedings when sentence is appealed from.

§ 243. Whenever the sentence of any regimental or battalion court-martial shall be appealed from, the officer hearing the appeal shall require the court, or the president thereof, to furnish him forthwith with a statement of the case, and of the evidence touching the same; which statement and evidence shall, in case of an appeal to the commanding officer of the brigade, be forthwith, on notice of such appeal, transmitted to him. (*As amended by chap.* 612 *of* 1865.)

Further evidence.

§ 244. Such statement being furnished, the officer hearing the appeal may hear such further evidence, by affidavit or otherwise as the nature of the case may require, and for that purpose he shall have power to administer oaths to witnesses produced before him, and order depositions of such witnesses as cannot reasonably be produced at the hearing of such appeal. (*As amended by chap.* 612 *of* 1865.)

Appeal from order of officer approving sentence.

§ 245. The last two sections shall extend to appeals made from the order of an officer approving the sentence of a court-martial.

Warrant may be renewed, or new warrant issued.

§ 246. If any officer having a warrant for the collection of any fine shall not be able to collect the fine within the time specified therein, then the officers issuing the warrant may, at any time thereafter, within two years from the time of imposing the fines, issue a new warrant against any delinquent, or renew the former warrant, from time to time, as may become necessary.

Collection of fines and renewal of warrant.

§ 247. Any warrant for the collection of fines, issued by virtue of this act, shall and may be renewed in the same manner that executions, issued from justices' courts, may by law be renewed.

Penalties for neglect, how recovered.

§ 248. It shall be the duty of the respective presidents of courts-martial to prosecute, in the name of the people of the State of New York, any marshal, or constable, sheriff, and their sureties, who shall

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incur any penalty for neglect in the execution or return of any warrant, or in paying over moneys collected by him.

President of court-martial.

§ 249. Whenever any court-martial shall consist of one person, he shall be deemed the president thereof, within the meaning of this act.

Returns to be made of delinquent commissioned officers.

§ 250. The chiefs of the staff in each division, regiment or battalion, shall, on or before the first day of November, in each year, return to the commandants of division and brigade, respectively, the names of all commissioned officers absent from any parade, encampment, or drill, which they shall be required by law to attend. Within ten days after the receipt of such returns, the respective commandants of division or brigade, as the case may be, shall order a court-martial, to consist of three commissioned officers, without regard to rank, to pass upon such delinquency. It shall not be necessary to cause the arrest of such absentee, nor to serve any charges, unless, in the discretion of the officer ordering the court, it may be proper; but the delinquent may be fined, pursuant to the provisions of this act, provided notice of the return and of the time appointed for holding the court-martial shall have been delivered to him or left at his usual place of abode, at least ten days before the assembling of said court.

Court may excuse delinquent.

§ 251. The court may excuse any such delinquent for good cause shown. (*As amended by chap.* 612 *of* 1865.)

Offenses against by-laws of company.

§ 252. Any fine for offenses against the by-laws of any company of the national guards or of regimental boards, not exceeding the sum of twenty-five dollars, a certified copy of the proceedings relating to the infliction of which has been returned to any regimental court-martial or court of appeals, may be enforced by such court in the manner hereinbefore provided, due notice being given to the delinquent; and further provided that a certified copy of said by-laws be filed with the commandant of the regiment.

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When U. S. army regulations to be considered in force. 20 Johns., 243.

§ 253. Whenever any portion of the military forces of this State shall be ordered to assemble for purposes of military instruction, under the authority of the commander-in-chief, or whenever any part of the State forces shall be ordered to assemble, under his authority, in time of war, insurrection, invasion or public danger, the rules and articles of war, and general regulations for the government of the army of the United States, so far as they are applicable, and with such modifications as the commander-in-chief may prescribe, shall be considered in force and regarded as a part of this act, during the continuance of such instruction, and to the close of such state of war, invasion, insurrection or public danger; but no punishment under such rules and articles which shall extend to the taking of life, shall, in any case, be inflicted, except in time of actual war, invasion or insurrection, declared by proclamation of the governor to exist.

Punishments limited.

OF THE DUTIES OF CERTAIN STAFF OFFICERS, AND OF VARIOUS MATTERS CONNECTED WITH THEIR VARIOUS RESPECTIVE DEPARTMENTS.

Of the Adjutant-General.

Duties of adjutant-general.

§ 254. The adjutant-general shall keep a roster of all the officers of the military forces of this State, containing the date of their commissions, their rank, the corps to which they belong, the division, brigade and regiment of such corps, and the places of their residence, as accurately as can be ascertained; which roster shall be revised and corrected every year.

Description of districts to be kept in book.

§ 255. He shall also enter in a book, to be kept for that purpose, a local description of the several company, regimental, brigade and division districts.

To be furnished with rosters of officers.

§ 256. It shall be the duty of the commandants of divisions and brigades to furnish the adjutant-general with a roster of their officers, containing the facts requisite to enable him to comply with the provisions of this act.

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Books to be furnished at expense of State.

§ 257. The books required by the adjutant-general to comply with this act, shall be furnished him at the expense of this State, and shall go to his successors in office.

Seal of office.

§ 258. The seal now used in the office of the adjutant-general shall continue to be the seal of his office, and shall from time to time be delivered to his successor in office; and all copies of records or papers in his office, duly certified and authenticated under the said seal, shall be evidence in all cases, in like manner as if the originals were produced.

Certified copies evidence.

To cause militia laws to be printed and distributed.

§ 259. It shall be the duty of the adjutant-general to cause so much of the militia laws as shall at any time be in force to be printed in proper form, from time to time, and to distribute one copy to each commissioned officer, and to each town clerk, supervisors' clerk, and county treasurer in this State; and also, to prepare and cause all necessary blank books, forms and notices to be transmitted at the expense of this State, to carry into full effect the provisions of this act; and the comptroller is hereby directed to draw his warrant on the treasurer of this State for the expenses incurred under this section.

Adjutant-general to appoint assistant.

§ 260. The adjutant-general is hereby authorized to appoint an assistant, who shall have the rank of colonel and be commissioned by the commander-in-chief, and who shall hold such office during the pleasure of the adjutant-general. In case of absence of the adjutant-general from the city of Albany, or in case of his inability to perform his duties, his assistant shall have full power to perform all the duties appertaining to the office of the adjutant-general. But nothing in this section shall be so construed as to give any validity to the acts of said assistant, or to those of any acting assistant, in case of the disapproval of the adjutant-general, after such disapproval shall have been shown by special order to that effect. .(*As amended by chap.* 612 *of* 1865.)

Powers of assistant.

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Of the Commissary-General.

Duties of commissary-general.

2 Hill, 434.

* § 261. The commissary-general shall keep in good repair the arsenals and magazines of the State, and attend to the due preservation and safe keeping, cleaning and repairing, of the ordnance, arms, accoutrements, ammunition, munitions of war, and implements of every description, the property of this State; and he shall at all times have the control and disposition of the same for that purpose.

To dispose of unsuitable ammunition, &c.

§ 262. He shall, under the direction of the commander-in-chief, dispose, to the best advantage, of all damaged powder, and of all ordnance, arms, ammunition, accoutrements, tools, implements and warlike stores of every kind whatsoever, that shall be deemed unsuitable for the use of the State.

To render accounts of sales.

§ 263. He shall, from time to time, render a just and true account of all sales made by him, with all convenient speed, to the governor, and shall pay the

Proceeds of sales.

proceeds of such sale into the treasury of the State for military purposes, or expend the same in the purchase of suitable arms, ammunition, and camp or other equipage, as the commander-in-chief may direct.

To furnish colors, drums, fifes, bugles, &c.

§ 264. Whenever the commanding officer of a brigade shall certify that a stand of colors, or any drums, fifes or bugles, are necessary for any company, battalion or regiment in his brigade, the commissary-general, with the approbation of the commander-in-chief, shall furnish such company, battalion or

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* Section 2 of chapter 809 of 1866, is as follows, viz.:

Commissary-general to be purchasing and issuing officer.

§ 2. The quartermaster-general and the commissary-general of ordnance, each in his own department, shall be the purchasing and issuing officer, and shall take charge of and be responsible for such military property and supplies as are known and designated by the regulations and orders governing the army of the United States as belonging to the ordnance department and the quartermaster department respectively.

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regiment with a stand of colors, and a sufficiency of drums, fifes and bugles, at the expense of the State.

To issue ammunition to artillery companies.

§ 265. The commissary-general shall issue the proper allowance of powder and balls to artillery companies for practice; and the several commandants of artillery companies shall annually report to the commissary-general the situation and state of the pieces of ordnance, arms, implements and accoutrements, the property of the State, intrusted to their charge respectively.

Reports.

To the several arms of the service upon requisition.

§ 266. The commissary-general shall issue all ammunition, suited to the several arms of the service, upon the requisition of any commandant of brigade, regiment or battalion; and shall, on a like requisition, replace such articles or implements for ordnance as may be by use rendered unfit for service.

To make annual report.

§ 267. The commissary-general shall report annually to the commander-in-chief, whose duty it shall be to transmit the same to the legislature, a true and particular statement, showing the actual situation and disposition of all the ordnance, arms, ammunition and other munitions of war, property or things, which in any wise appertain to or respect the department confided to his keeping.

2 Hill, 454.

To keep a just and true account of necessary expenses.

§ 268. He shall keep a just and true account of all the expenses necessarily incurred in and about his department, which shall include all expenses for transportation to and from the arsenals, all ordnance, arms, ammunition and camp equipage, and deliver the same to the comptroller, who shall thereupon examine and audit the same, and shall draw his warrant on the treasurer for such sum as he shall audit and certify to be due.

To prosecute bond in certain cases.

§ 269. It shall be the duty of the judge-advocate-general to prosecute any bond, the condition of which is violated by a neglect or refusal of any officer to report the condition of any arms or equipage, or to return the same to any of the arsenals of this State, as required by law.

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To appoint an assistant. His rank and term of office.

§ 270. The commissary-general is authorized to appoint an assistant, with the rank of colonel, and who shall be commissioned by the commander-in-chief, and hold his office during the pleasure of the commissary-general, and shall perform the duties now required by law to be performed by the military storekeeper at the New York arsenal, and shall be compensated in the same manner as such military storekeeper has been compensated. In the absence of the commissary-general from the city of New York, or in case of his inability to perform his duties, his assistant shall have full power to perform all the duties appertaining to the office of the commissary-general; but nothing in this section shall be so construed as to give any validity to the acts of such assistant in case of the disapproval of the commissary-general.

Powers of assistant.

Of the Inspector-General.

Inspector-general to visit regiments.

§ 271. It shall be the duty of the inspector-general to visit, at least once in every two years, each regimental district in the State. He shall critically inspect, as often as he may deem necessary, every branch connected with the military service, including armories, arsenals and military storehouses; and he shall also attend to the organization of the militia, and report to general head-quarters the improvement in discipline and tactical instruction of the uniformed forces.

Commandants of regiments to furnish information to.

§ 272. Commandants of regiments and companies shall furnish to the inspector-general such information as he may require, as to the number and kinds of arms, equipments and military property of the State issued to their respective regiments and companies; and, at the conclusion of the inspection of any armory, arsenal or military storehouse, if he find the property which ought to be kept therein, or any part of it, missing, injured, unfit for use or deficient in any respect, he shall forthwith report the facts, in respect thereto, to the commander-in-chief.

Reports as to deficiencies.

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§ 273. It shall be his duty, after the first day of November in each year, to inspect the tents and camp equipage belonging to the State, and report any deficiency therein, or any damaged property or unfit for use, to the commander-in-chief on or before the first day of January next thereafter. Upon receiving the reports mentioned in this and the last preceding section, the commander-in-chief may order such property to be sold at public auction, upon thirty days' notice to be published once a week in the State paper, and also in some newspaper printed in the county in which such property is situated, to the highest bidder, under the direction of the commissary-general of ordnance, and the net avails thereof shall be paid into the treasury to the credit of the militia fund. (*As amended by chap.* 612 *of* 1865.)

Inspector to inspect tents, &c., and report.

Property, when to be sold. Notice of sale, how given.

§ 274. In his annual report he shall state what general and field officers have been in command of parades and encampments, what changes of general or field officers have been made, and what degree of improvement has been attained by both officers and men, and whether the general regulations have been observed, together with such suggestions as he may see fit to make.

Annual report, what to state.

§ 275. To the inspector-general will be referred, by order of the commander-in-chief, such matters as require an examination at a distance from the general head-quarters, for the information of the commander-in-chief; and it shall be the duty of inspector-general, upon such reference, to report upon the qualifications of persons named to the commander-in-chief, for appointment to military office, and also upon the possession of the necessary requisites by the applicants for the organization of companies.

Certain matters to be referred to.

§ 276. The division and brigade inspectors, whenever required by the inspector-general, shall report to him the condition of their respective divisions or brigades, and shall also, upon his request, report to

Division and brigade inspector to report to.

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him upon any matter properly belonging to his department, which may require examination within their respective division or brigade districts.

To visit encampments.

§ 277. The inspector-general shall visit the several encampments which shall be ordered by the commander-in chief and to ascertain whether the troops have been properly instructed in the exercises and evolutions of the field; he will cause them to be exercised in the maneuvers required to be practiced during the year, as prescribed by the regulations; and he will give his instructions, as to the exercises, to the commanding officer, who will issue all necessary orders and directions to the troops for their execution.

To examine proceedings of board of auditors, and report to commander-in-chief.

§ 278. The inspector-general shall, at least once in every two years, examine the book of proceedings of the board of auditors of each regiment, and the accounts filed with the secretary of such board during the two years previous, or since the last examination made by the inspector-general, and he shall carefully compare the book of proceedings with accounts; he shall also examine the warrants drawn by the board of auditors, in the possession of the county treasurer, and he shall specially report to the commander-in-chief whether the proceedings of the board of auditors are regularly and properly entered, and whether the warrants are in due form; and whether any military funds have been drawn from the county treasurer for improper purposes, or by persons not entitled thereto.

To appoint assistant.

§ 279. The inspector-general is hereby authorized to appoint an assistant, who shall have the rank of colonel, and be commissioned by the commander-in-chief, and who shall hold such office during the pleasure of the inspector-general, and shall receive the same compensation as the assistant adjutant-general. In the absence of the inspector-general from the city of Albany, or in case of his inability to perform his duties, his assistant shall have full power

Term of office and powers of assistant.

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to perform all duties appertaining to the office of the inspector-general. But nothing in this section shall be so construed as to give any validity to the acts of said assistant, in case of the disapproval of the inspector-general.

Acts of an assistant when not valid.

Of the Judge-Advocate-General.

§ 280. The judge-advocate-general, as chief of his department, is charged with the supervision, care and management of all things relating to the administration of justice among the military forces of this State. He shall diligently scrutinize and examine the proceedings of all courts-martial where an appeal has been taken, and report thereon for the information of the commander-in-chief; he shall also, in like manner, report in all cases of disputed elections where an appeal has been taken. Under the orders of the commander-in-chief, the judge-advocate-general shall act as judge-advocate at any court-martial where the public interests shall require his attendance.

Powers and duties of.

§ 281. The judge-advocate-general is the legal adviser of the several staff departments, upon all legal questions which may arise therein, and to him may be referred for supervision all contracts, agreements, or other instruments, to be drawn or executed in the course of the business of such department.

Legal adviser of staff departments.

§ 282. The officers of the judge-advocate-general's department, when not engaged in the special duties of the same, may be detailed for such other staff duty as the commandants of their respective brigades or divisions shall direct.

Officers of department may be detailed.

OF INVASION, INSURRECTION, BREACHES OF THE PEACE, AND DRAFTS OF THE MILITIA.

Of Invasion and Insurrection.

§ 283. In cases of insurrection or invasion, or imminent danger thereof, the commander-in-chief may, by proclamation or otherwise, order and direct the commandants of such company districts as he

Powers of commander-in-chief in certain cases.

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shall designate, to accept sufficient volunteers, should the same offer, to raise said company, and maintain the same at the maximum number provided by law, and if sufficient volunteers should not offer, then a sufficient number shall be drafted from the reserve militia of said districts in the manner hereinafter provided, who shall thereupon be enrolled as national guards in said company, and shall be liable to duty in case the military forces of the State should be called into service.

When militia may be called into service, compensation.

*§ 284. The commander-in-chief shall have power, in case of insurrection or invasion, or imminent danger thereof, to order into the service of the State such number and description of companies or regiments of the national guard, or of other militia of the State as he shall deem proper, and under the command of such officers as he shall direct, and in such case the forces so called into service shall receive the same pay and rations as troops in the service of the United States. And all the acts, proclamations and orders of the governor of this State since the sixteenth day of April, eighteeth hundred and sixty-one, relating to the calling out of the militia or volunteers from this State for the service of the United States, are hereby approved, and in all respects legalized and made valid, to the same intent and with the same effect as if they had been issued and done with the previous express authority and direction of the legislature of

Certain acts of governor confirmed.

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* Section 6 of chapter 612 of 1865, is as follows:

Mustering in and out. 20 Johns., 243

§ 6. Whenever any part of the national guard forces shall be ordered into actual service by the commander-in-chief, they shall be mustered into service, and such muster certified on proper muster and descriptive rolls, duplicates of which shall be filed, one copy with the adjutant-general and the other with the paymaster-general; and at the expiration of service shall be mustered out in like manner. Such musters shall be made by such officers and under such regulations as may be ordered by the commander-in-chief.

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this State, and all commissions issued or hereafter to be issued to the officers of such volunteer forces by the governor of this State, in accordance with the act of congress in such cases made and provided, are hereby confirmed.

Commandants of divisions, &c., may order out command.

§ 285. In case of any invasion, or of imminent danger thereof, within the limits of any division, brigade, regiment or battalion, it shall be the duty of the commandant of such division, brigade, regiment or battalion to order out, for the defense of the State, the militia, or any part thereof, under his command, and immediately report what he has done to the commander-in-chief, through the adjutant-general.

Notice of invasion to be given.

§ 286. It shall also be his duty to give immediate notice of such invasion, and of the circumstances attending the same, to his immediate commanding officer, by whom such information shall be transmitted with the utmost expedition to the commander-in-chief.

Regiments or battalion to be ordered out.

§ 287. The commandant of every regiment or battalion, within the limits of which an insurrection may happen, shall immediately assemble his regiment or battalion, under arms, and with the utmost expedition shall transmit information of such insurrection to the commandant of his brigade and to the commander-in-chief.

Notice of insurrection to be given.

§ 288. He shall also give immediate notice of such insurrection to any judge of the county in which it shall happen, and shall take such measures for its suppression as to such judge shall appear most proper and effectual.

Additional force to be employed when necessary.

§ 289. If the said judge shall deem a greater force requisite to quell the insurrection, he shall require such additional force as he may deem necessary from the commandant of the division, or of any brigade therein, whose duty it shall be to obey his requisition.

Persons wounded or disabled.

§ 290. Every person who, whilst in the actual service of this State, shall be wounded or disabled in

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how taken care of.

opposing or suppressing any invasion or insurrection, shall be taken care of and provided for at the expense of the State.

OF RIOTS, TUMULTS, BREACHES OF THE PEACE AND RESISTANCE TO PROCESS.

Breaches of peace.

§ 291. In case of any breach of the peace, tumult, riot or resistance to process of this State, or apprehension of imminent danger of the same, it shall be lawful for the sheriff of any county, or the mayor of any city to call for aid from any division, brigade, regiment, battalion or company; and it shall be the duty of the commanding officer of such division, brigade, regiment, battalion or company, to whom such order is given, to order out, in aid of the civil authorities, the military force, or any part thereof, under his command.

Written orders not necessary for calling out men.

§ 292. In such case it shall not be necessary for commandants of companies to issue written orders or notices for calling out their men, but verbal orders and notices shall be sufficient.

Men to be supplied with arms and ammunition.

§ 293. It shall be the duty of the commanding officer of any division, brigade, regiment, battalion or company, in all cases when so called into service, to provide the men of his command, so ordered out, with at least twenty-four rounds of ball cartridge, and arms in complete order for actual service.

Officer to be subject to order of sheriff in certain cases.

§ 294. Such officer shall be subject, as provided by law, to the sheriff or public officer who shall so require his aid; and for refusing or neglecting to obey the order of such sheriff, or public officer so requiring service, or for interfering or in any way hindering or preventing the men of his command from performing such duty, or in any manner, by neglect or delay, preventing the due execution of law, every such commanding officer, and every commissioned officer under his command so offending, shall be liable to a fine of not less than one hundred nor more than five hundred dollars, and imprisonment in the county jail for a period not exceeding six months.

Penalty for disobeying orders.

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§ 295. It shall be the duty of the district attorney of any county where such offense shall be committed, to prosecute the same; and in addition thereto, such officer shall be liable to be tried by court-martial and sentenced to be cashiered and incapacitated forever after for holding military commission in this State.

Duty of district attorney.

Offense, how punished.

§ 296. Any non-commissioned officer, musician or private, who shall neglect or refuse to obey the orders of his commanding officer in the case above provided for, shall be liable to a fine of not less than twenty-five nor more than one hundred dollars, and imprisonment in the county jail for a period not to exceed three months, to be prosecuted and recovered in the manner hereinbefore provided in the case of commissioned officers.

Penalty for disobedience of orders.

§ 297. All officers, non-commissioned officers and privates, in cases of riot, tumult, breach of the peace, resistance to process, or whenever called upon in aid of the civil authorities, shall receive the compensation provided by an act entitled, "An act to enforce the laws and preserve order," passed April 15th, eighteen hundred and forty-five, which continues in force, and shall be published with this act; and every person who shall be wounded or disabled in such service, shall be taken care of and provided for at the expense of the county where such service shall be rendered.

Compensation.

Act to enforce laws and preserve order continued in force.

Persons wounded.

OF DRAFTS OF THE MILITIA.

§ 298. Whenever the commander-in-chief shall order a draft from the reserved militia of any company district, to raise the company of the national guard therein to, and maintain the same at, either the minimum or maximum number provided by this act, or whenever a general draft of the militia shall be made by order of the commander-in-chief, or of the president of the United States, such draft shall be determined by lot, to be drawn by the clerk of the county in which such roll has been filed, in the

Drafts from the reserved militia, how made.

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How conducted.

presence of the county judge and the mayor of any city, or the supervisor of any town or ward, upon the requisition of the commanding officer of the regiment within whose bounds such person may reside.

Persons drafted may present certificate of exemption.

§ 299. Any person so drafted may, within ten days after receiving such notice of the same, present to the commandant of the regiment, independent battery or battalion, his certificate of exemption by reason of physical disability, from some surgeon or assistant-surgeon of the national guard, or other due and sufficient proof of his non-liability to military duty, and if such certificate or proof shall be sufficient and satisfactory, such person shall be discharged and another person shall be drafted in his stead, in accordance with the provisions of this act. The

Expenses of serving notice.

necessary expenses for serving notices upon drafted persons shall be a county charge upon the county in which such drafted persons shall reside respectively, and shall be audited and paid in the same manner as other county charges are audited and paid. (*As amended by chap.* 612 *of* 1865.)

Persons drafted may offer substitute.

§ 300. Any person so drafted, in accordance with the above provisions, may offer a substitute at the time of the rendezvous of the drafted military force and militia, and such substitute, if he shall be an able-bodied man, of the age of twenty-one years and upwards, and shall consent in writing to subject himself to all the duties, fines, forfeitures and punishments to which his principal would have been subject had he personally served, shall be accepted by the commandant of the company of drafted militia to which his principal may belong.

Excused from draft by payment of $300.

11 Johns., 82.

Any person so drafted, who may be a member of any religious denomination whatever, as from scruples of conscience may be averse to bearing arms, shall be excused from said draft on payment to the clerk of the county by whom such draft is made, the sum of three hundred dollars, to be by said county

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clerk paid to the comptroller of the State, to be applied to the purposes mentioned in this act. (*As amended by* § 6 *of chap.* 425 *of* 1863.)

Drafts pursuant to order of president of U. S. or commander-in-chief.

20 Johns., 243.

*§ 301. Whenever the president of the United States or the commander-in-chief shall order a draft from the militia for public service, such draft shall be made in the following manner:

1. When the draft required to be made shall be a number equal to one or more companies to each brigade, such draft shall be made by company, to be determined by lot, to be drawn by the commandant of brigade in the presence of the commanding officers of the regiments composing said brigade, from the military forces of the State in his brigade, organized, uniformed, armed and equipped, according to the provisions of this act.

2. In case such draft shall require a number equal to one regiment, such shall be determined by lot in the manner above prescribed.

3. In case such draft shall require a larger number than the whole number of men composing the military force of said brigade, such additional draft shall be made of the requisite number, to supply such deficiency, from the military roll of the reserve militia of each town or ward, filed in the office of the city, village or town clerk, as hereinbefore provided.

Rules for distribution of arms, &c., to be prescribed.

§ 302. The commander-in-chief shall prescribe such rules, orders and regulations, relative to the distribution of arms, ammunition and military stores, to the militia when called into actual service, as he may deem proper.

Command to devolve on senior officer.

§ 303. The command of any military force, called into service under the provisions of this title, shall devolve upon the senior officer of such force, unless otherwise specially ordered by the commander-in-chief.

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* See section 6 of chapter 612 of 1865, in a note to section 284, *ante*, p. 94.

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OF THE MILITARY FUND OF THE STATE, AND APPROPRIATIONS FOR MILITARY PURPOSES.

Moneys received under provisions of this act to be kept separate.

§ 304. The moneys received from the several county treasurers, under the provisions of this act, shall be kept separate and apart from the current and ordinary finances of this State, and shall be applied to the purposes mentioned in this act and to no other.

Appropriation for purchase of uniforms, &c.

§ 305. For the purchase of uniforms and equipments, pay of officers and privates, and other expenditures authorized by this act, the sum of three hundred thousand dollars is hereby appropriated from the moneys mentioned in the last preceding section, and from any other moneys in the treasury not otherwise appropriated.

MISCELLANEOUS PROVISIONS.

Commander-in-chief to prescribe rules for government of forces.

§ 306. The commander-in-chief is hereby authorized to establish and prescribe such rules, regulations, forms and precedents as he shall deem proper for the use and government of the military forces of the State, and to carry into full effect the provisions of this act. Such rules, regulations, forms and precedents shall be published in orders by the adjutant-general, and, from time to time, distributed to the commissioned officers of the State.

Persons serving seven years to receive certificate.

§ 307. Whenever any non-commissioned officers, musicians or privates, of any uniform company or troop, shall have performed service in any such company or troop for the space of seven years from the time of his enlistment therein, properly uniformed according to the provisions of law, he shall be furnished, on application, by the commanding officer of such company or troop, with a certificate, duly setting forth such facts, which shall, for all purposes, be deemed *prima facie* evidence thereof.

Commanding officer to deliver certificates to members of his company.

§ 308. The commanding officer of every uniform company or troop shall, on the application of any commissioned, non-commissioned officer, musician or private of his company, deliver to him a certificate,

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stating that such person is a member of his company, and whether he is uniformed according to law, and how recently he may have performed duty in said company. Such certificate, when dated within six months, shall be deemed for all purposes *prima facie* evidence of the matter therein stated.

Military property exempt from execution, &c.

§ 309. Every officer, non-commissioned officer, musician and private of the uniformed militia of this State, who shall have provided himself with a uniform, arms or accoutrements required by law or regulation, shall hold the same exempt from all suits, distresses, executions or sales for debts, or for the payment of taxes; and every mounted officer, and every member of a troop of cavalry or light artillery, who shall own a suitable horse necessary for his use as such officer or member, shall hold the same with the like exemption.

Rules and regulations.

§ 310. The rules and regulations, prepared by a board of officers under section one of title nine of the militia law, passed April seventeen, eighteen hundred and fifty-four, with such changes and modifications as are provided in this act, having received the approval of the commander-in-chief, are hereby ratified and confirmed; and the commander-in-chief is hereby authorized to make such changes and alterations in said regulations, from time to time, as he may deem expedient.

Ordnance sergeants may be appointed keepers of armories.

§ 311. The commandants of regiments may appoint ordnance sergeants as keepers of armories, not exceeding one to each armory, who shall be under the authority and hold office during the pleasure of the commandant; such ordnance sergeants shall be paid as now provided for keepers of armories.

When person belonging to military company may not be arrested on civil process.

§ 312. No person belonging to the military forces shall be arrested on any civil process while going to, remaining at, or returning from any place at which he may be required to attend for military duty.

Penalty for unlawfully retaining military

§ 313. Any person who shall purchase, retain or have in custody or possession without right any mili-

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property of the State.

tary property belonging to this State marked as or known to him to be such, and shall, after proper demand, refuse to deliver the same to any officer entitled to the possession thereof, shall be liable to an action for the recovery of the possession of such military property, and of a penalty of not less than ten nor more than one hundred dollars.

Id.

§ 314. Any person belonging to the military forces who shall, contrary to the lawful order of the proper officer, retain in his possession or control any military property of this State, shall be liable to an action to recover the possession thereof and to pay a fine of not less than ten nor more than one hundred dollars, and shall also be deemed guilty of a misdemeanor; and any commanding officer may take possession thereof, or of such military property mentioned in the preceding section, wherever the same may be found.

Action to recover possession of military property.

§ 315. Actions to recover the possession of military property, and the amount of any fine or penalty under the two preceding sections, may be brought, by any officer entitled to the possession of such property, in any court of competent jurisdiction, and such fine or penalty, together with all other fines and penalties prescribed by this act, and by chapter three hundred and ninety-eight of the Session Laws of eighteen hundred and fifty-four, shall be paid to the treasurer of the county where the offender may reside, for the benefit of the military fund of the regiment located therein. The possession of any military property, or the amount of a fine or penalty, may be recovered in the same action. Proceedings at law shall not preclude the punishment of any military person in the military courts.

Persons belonging to military force going to or from parade, &c., exempt from payment of toll.

§ 316. Any person belonging to the military forces of this State, going to or returning from any parade, encampment, drill or meeting, which he may be required by law to attend, shall, together with his conveyance and the military property of the State,

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be allowed to pass free through all toll-gates, over toll-bridges and ferries.

Officer having served 20 years in this State under commission, may have honorary rank of colonel conferred upon him.

§ 317. Whenever any officer shall have served or shall hereafter serve continuously and honorably as commandant of any military company, under a military commission issued under the laws of this State, for the period of twenty years, the commander-in-chief shall have power to confer upon such officer the brevet or honorary rank of colonel, but such brevet shall not confer additional pay or emoluments for services under this act.

Compensation of military while on duty pursuant to order of sheriff.

§ 318. All officers, non-commissioned officers, musicians and privates of the national guard, while on duty or assembled therefor, pursuant to the order of the sheriff of any county, or the mayor of any city, in cases of riot, tumult, breach of peace, resistance to process, or whenever called upon in aid of the civil authorities, shall receive the compensation provided by the twenty-first section of the act entitled "An act to enforce the laws and preserve order," passed April fifteen, eighteen hundred and forty-five, and such compensation shall be audited, allowed and paid by the supervisors of the county where such service is rendered, and shall be a portion of the county charges of said county, to be levied and raised as other county charges are levied and raised.

Conflicting laws repealed.

§ 319. Chapter three hundred and ninety-eight of the Laws of eighteen hundred and fifty-four, except such parts of the same as are referred to in sections five and ten of this title, chapters two hundred and sixty-one and five hundred and thirty-six of the Laws of eighteen hundred and fifty-five, chapters one hundred and twenty-nine and three hundred and forty-three of the Laws of eighteen hundred and fifty-eight, and all other acts and parts of acts conflicting with this act are hereby repealed; but such repeal shall not affect any legal proceedings commenced under them.

§ 320. This act shall take effect immediately.

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THE

MILITARY CODE

OF THE

STATE OF NEW YORK.

PART II.

Chap. 69.

AN ACT to enforce the laws and preserve order.

PASSED April 15, 1845.

[Published in accordance with the directions contained in § 297, chap. 477, Laws of 1862. See *ante*, page 97.]

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Arms, &c., may be loaned in certain cases.

SECTION 1. The commander-in-chief may, on the application of any sheriff, deputy sheriff or district attorney, or either of them, or of the mayor or recorder of any city, or of the commander of any uniform company, loan to such officer, or to any military company, or to any number of citizens, or to any city, village or town, any number of stands of arms and military equipage, from any of the arsenals or military stores of this State, which he shall deem proper, and for such time and on such terms and conditions and security as he shall deem proper.

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Guard to protect jail may be organized.

§ 2. On the application of the sheriff, under sheriff or district attorney of any county of this State, with the assent of a majority of the judges of the county courts of such county, the governor may, if in his opinion it shall be necessary and proper, authorize such sheriff, under sheriff, district attorney, or some deputy sheriff, to contract with and organize a guard for the protection of any jail or prison in said county, or to arrest, detain, or have in safe keeping any prisoner or prisoners, or to enforce any process, judgment or decree of any court; which application and authority shall be in writing, and a copy thereof filed and recorded in the office of the secretary of State.

Number.

§ 3. The said written authority shall specify the number of persons beyond which the said guard shall not extend.

Revocation.

§ 4. The governor may at any time revoke, alter or modify such authority.

Contract may be made with guard.

§ 5. The governor may, in his discretion, permit such sheriff, under sheriff or deputy to contract with any uniform company or companies to form such guard.

Guard, how to be commanded.

§ 6. Such guard, when so formed, shall be under the command and direction of such officer or officers as shall be designated by the governor, and in case he shall not make such designation, then under the command of the sheriff, under sheriff or deputy, and of such officer or officers, military or civil, as shall be designated by such sheriff or deputy; and shall be subject to all such rules and regulations for their government and action as shall have been agreed on at the time of their organization, or afterwards directed by the governor; and the governor may deliver to such guard any amount of ammunition or cartridges that he shall think proper and necessary.

Penalties.

§ 7. The members of the said guard shall be subject to such penalties and forfeitures, for neglect of duty or disobedience of orders, as shall have been pre-

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scribed at the time of their organization, or afterwards, by the governor.

Per diem allowance.

§ 8. Such guard shall receive, as a compensation for their services, such per diem allowance as shall have been agreed upon at the time of their employment, or at any time afterwards, not exceeding, however, the sum of one dollar per day, for each private, and for each officer such sum as shall have been agreed on, not exceeding two dollars per day; and for each horse employed singly not exceeding one dollar per day, and for each two-horse team and driver not exceeding three dollars per day. (*As amended by chap.* 65 *of* 1846.

Vouchers as to performance of service.

§ 9. The comptroller may require such vouchers and proofs of the agreements and performance of service under this act as he shall deem proper, and shall from time to time audit and allow the accounts therefor as he shall deem just; and when so audited and allowed, shall draw his warrant on the treasurer for the payment thereof, and the treasurer shall pay the same out of any moneys not otherwise appropriated.

In relation to expenses.

§ 10. The comptroller may require such vouchers and proofs, in relation to all and each of any such expenses, as he shall deem proper.

Money paid to be charged to county.

§ 11. All moneys paid from the treasury on the warrant of the comptroller, by virtue of any of the foregoing provisions of this act, shall be charged by the comptroller to the county for whose benefit the same has been so paid, and he shall certify the amount thereof to the treasurer of said county.

Duty of county treasurer.

§ 12. It shall be the duty of such county treasurer to lay the same before the supervisors of said county at their next annual meeting.

Duty of supervisors.

§ 13. The said supervisors shall, at their next annual meeting, cause the amount thereof to be levied and collected as other county charges are now by law directed to be levied: Provided, however, if the said board of supervisors shall think it would be

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unreasonably burdensome to such county to raise the whole thereof in one year, the said sum so to be raised may be divided into two or three equal parts, one whereof shall be levied and collected in each succeeding year, until the whole sum shall be so levied and collected.

Money to be paid into State treasury.

§ 14. The sum or sums levied by virtue of the last preceeding section shall be paid over to the county treasurer, who shall, on or before the first day of May thereafter, pay over the same to the treasurer of the State, to the credit of such county.

Temporary guard.

§ 15. Whenever the sheriff of any county shall deem it necessary to raise a temporary guard for the protection of a jail or prison, or the safe keeping of prisoners, he may, with the assent of one of the judges of the county courts, employ such temporary guard as may be necessary until a guard can with reasonable diligence be formed and organized under the second section of this act; the expenses of which said temporary guard shall be audited, allowed and paid by the board of supervisors of said county, as other county charges.

Expense, how paid.

§ 16. The expenses of the sheriff or other county officer, incurred in pursuance of any of the provisions of this act, shall be audited, allowed and paid by the board of supervisors of the county, and shall be a portion of the county charges of such county, to be levied and raised as other county charges are by law levied and paid.

Penalty for resisting execution of process.

§ 17. Every person who shall resist or enter into a combination with any person or persons to resist the execution of process, shall be guilty of a misdemeanor, and be punished by imprisonment in the county jail for a term not exceeding one year, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment, in the discretion of the court.

Revised Statutes amended.

§ 18. Section eighty, in article seven of title six of chapter seven of the third part of the Revised Statutes, is hereby amended, so that the said section

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shall read: "Whenever a sheriff or other public officer, authorized to execute any process delivered to him, shall find or have reason to apprehend that resistance will be made to the execution of such process, he shall be authorized to command every male inhabitant of his county, or as many as he shall think proper, and with such arms as he shall direct, and any military company or companies in said county, armed and equipped, to assist him in overcoming such resistance, and, if necessary, in seizing, arresting and confining the resisters, their aiders and abettors, to be dealt with according to law."

Power of sheriff to call out inhabitants.

§ 19. Whenever the governor shall be satisfied that the execution of civil or criminal process has been forcibly resisted in any county or counties of this State, by bodies of men, or that combinations to resist the execution of such process by force exist in any such county or counties, and that the power of such county or counties has been exerted and is not sufficient to enable the officer having such process to execute the same, he may, on the application of such officer, or of the district attorney of such county, or of one of the judges of the county courts thereof, by proclamation to be published in the State paper, and in such other papers as he shall direct, declare such county or counties to be in a state of insurrection; and may order into the service of the State such number and description of volunteer or uniform companies or other militia of this State as he shall deem necessary, to serve for such term as he shall direct, and under the command of such officer or officers as he shall think proper; and the governor may, when he shall think proper, revoke, or declare that such proclamation shall cease at such time and in such manner as he shall direct.

County, when to be declared in a state of insurrection.

Volunteer companies may be ordered into service.

§ 20. Any person or persons who shall, after the publication of such proclamation by the governor, as provided in section nineteen of this act, resist or assist in resisting the execution of any process in any such

Penalty for resisting execution of process.

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county so declared to be in a state of insurrection, or who shall aid or attempt the rescue or escape of any prisoner from lawful custody or confinement, or who shall resist, or aid or assist in resisting any force ordered out by the governor to quell or suppress any such insurrection, shall, upon conviction, be adjudged guilty of a felony, and punished by imprisonment in the State prison for a term not less than two years.

Militia called into service how paid.

§ 21. Whenever any portion of the militia shall be ordered into service by the governor, in pursuance of section nineteen of this act, they shall be paid therefor at the following rates, to wit: To each private the sum of one dollar per day; to each non-commissioned officer and musician the sum of one dollar and twenty-five cents per day; and to all commissioned officers of the line, and to the field and staff officers, the same compensation as is paid to officers of the army in the service of the United States, together with all necessary rations and forage, and for the horses of any mounted men one dollar per day.

Expenses under sections 19 and 21 how paid.

§ 22. The expenses under the sections nineteen and twenty-one, and also of the commissariat and other military departments, shall be audited and allowed by the comptroller, and on his warrant paid by the treasurer out of any money in the treasury not otherwise provided.

§ 23. This act shall take effect immediately.

STATE OF NEW YORK,
GENERAL HEAD-QUARTERS,
ALBANY, *August*, 1866.

GENERAL ORDERS,

The commander-in-chief hereby establishes the following forms and precedents for the use of the militia of this State, in accordance with the provisions of the Military Code of the State of New York, which Code is hereby published and promulgated for the use of the National Guard.

By order of the commander-in-chief.

WILLIAM IRVINE, *Adjutant-General*.

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FORMS.

(No. 1.)

ENROLLMENT.

See § 4, pt. 1.

Of persons liable to military duty in the District of....., Company ....., ... Regiment, County of ....., Colonel commanding, ...

Four copies of this enrollment shall be made by the enrolling officers, one of which shall be filed in the office of the town or city clerk, or of the county clerk, if there be no town or city clerk, on or before July 1st, one shall be retained by him, and the remaining two shall be filed after being corrected, by striking out the names of exempts, the one in the office of the Adjutant-General, and the other in the office of the county clerk of the county in which the company district is situated. *Military Code*, § 4,

Name.	Residence.	Age.	Class.

...., *Enrolling Officer.*

(No. 2.)

CERTIFICATE THAT ENROLLMENT HAS BEEN FILED.

See § 4, pt. 1.

I do hereby certify that a copy of an enrollment of persons liable to military duty in ..... Company District, ... Regiment, County of ....., was duly filed in my office, on the ..... day of ..... by ...., Enrolling officer.

Dated .....

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(No. 3.)

NOTICE TO BE SERVED UPON EACH PERSON ENROLLED.

See ante, § 4.

To .....,

Take notice that, in pursuance of the requirements of the Military Code of the State of New York, you are enrolled as liable to military duty in ..... Company District, ... Regiment, County of ....., Colonel commanding, ..., and that if you claim that you are for any reason exempt from military duty, you must on or before the fifteenth day of August next file a written statement of such exemption, verified by affidavit, in the office of the ..... clerk of the..... of ....., in default of which you will lose the benefit of such exemption.

Yours, &c.,

..... *Enrolling Officer.*

Dated ....., 186..

(No. 4.)

NOTICE OF FILING OF ENROLLMENT.

To be published by the County Clerk of each county once a week for four weeks previous to the first day of August, in a newspaper published in the county.

See § 8.

Notice is hereby given that the enrollments of persons liable to military duty in the several company districts of this county, have been completed and filed in the offices of the several town clerks therein (or in the office of the city or county clerk), and that any person who claims that he is, for any reason, exempt, shall, on or before the fifteenth day of August next, file a written statement of such exemption in such office, verified by affidavit, in default of which such person shall lose the benefit of such exemption.

Dated .....

....., *County Clerk of ..... County.*

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(No. 5.)

FORM OF VERIFICATION OF EXEMPTION.

COUNTY OF ....., ss:

....., being duly sworn, doth depose and say that he is the same person named in the foregoing statement of exemption, and that the matters therein stated, upon which his claim for exemption from military duty is founded, are true.

.....

Sworn to before me, this ..... day of ....., 18..

(No. 6.)

A LIST OF NAMES OF THE MEMBERS OF A FIRE COMPANY TO BE FILED BY THE FOREMAN OF SUCH COMPANY IN THE OFFICE OF THE TOWN OR CITY CLERK.

See ante, § 9.

The following is a list containing the names of all persons belonging to the fire company known as ....., in the (city, village or town, as the case may be) of ..... in the county of ....., and State of New York, which list is made and filed in pursuance of section 9, of chap. 477, of 1862, by ...., Foreman of said Company, to wit:

Names.	Places of Residences.

....., *Foreman.*

Dated at ....., 186..

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(No. 7.)

COMPANY ROLL FOR INFANTRY OR RIFLEMEN

Company [....] of .....in the.....Regiment,.....Brigade, and.....Division of the National Guard of the State of New York, under the command of Captain.....as corrected on the.....

Names of Commissioned Officers.	Drums, Bass.	Drums, Snare.	Fifes.	Bugles or Trumpets.	Rifles.	Sword Bayonets.	Muskets.	Rifle Muskets.	Bayonets.	Cartridge Boxes.	Cartridge Box Belts.	Cartridge Box Plates.	Scabbard and Belts.	Scabbard Belt Plates.	Bullet Moulds.	Swedges.	Screw Drivers.	Spring Vices.	Worms.	Knapsacks.	Pouches.	Powder Horns.	Cartridge with Balls.	Blank Cartridge.	Loose Balls.	Pounds of Powder	REMARKS.
Names of Non commis'd Officers.																											
Sergeants.																											
Corporals.																											
Musicians.																											
Names of Privates.																											

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(No. 8.)

FORM OF COMPANY ROLL FOR ARTILLERY.

NATIONAL GUARD, STATE OF NEW YORK.

Roll of the Company of Artillery, in the.....Regiment,.....Brigade, and.....Division of the National Guard of the State of New York, under the command of Captain.....as corrected on the.....

Names of Commissioned Officers.	Muskets.	Bayonets.	Cartouch Boxes.	Cartridges with Balls.	Swords and Belts.	Knapsacks.	Uniforms.	Colors.	Brass—Pounders.	Iron—Pounders.	Cartridges.	Ammunition Boxes.	Tarpaulins.	Tillers.	Tompions and Straps.	Aprons.	Drag Ropes.	Limbers.	Sponges.	Worms and Ladles.	Lintstocks.	Portfire Stocks.	Portfire Cases.	Haversacks.	Powder Horns.	Tube Boxes.	Nippers.	Priming Wires.	Gimlets.	Hammers.	Belts.	Ammunition Carts.	Sets Horse Harness.	Tar Buckets.	Pounds of Powder.	Canister Shot.	Flannel Cartridges.	Port Fire.	Slow Match.	Tubes.	Tumbrils.	Drums.	Fifes.	Haversacks.	Canteens.	REMARKS.
Names of Non-commis'd Officers																																														
Sergeants.																																														
Corporals.																																														
Musicians.																																														
Names of Privates.																																														

(No. 9.)

FORM OF COMPANY ROLL FOR CAVALRY.

NATIONAL GUARD, STATE OF NEW YORK.

Roll of the Company of Cavalry, in the.....Regiment,.....Brigade, and.....Division of the National Guard of the State of New York, under the command of Capt....., as corrected on the.....

Names of Commissioned Officers.	Colors.	Uniforms.	Caps.	Pairs Boots.	Pairs Spurs.	Sabres.	Pairs Pistols.	Cartouch Boxes.	Cartridges.	Horses, 14½ hands.	Saddles.	Holsters.	Breast Plates.	Cruppers.	Bridles.	Mail Pillions.	Valises.	Trumpet.	Bugle.	REMARKS.
Names of Non-Commissioned Officers.																				
Sergeants.																				
Corporals.																				
Musicians.																				
Names of Privates.																				

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(No. 10.)

SUPERNUMERARY OFFICER'S REPORT TO ADJUTANT-GENERAL.

See ante, § 46.

To .....

Adjutant-General of the State of New York.

The undersigned, in pursuance of § 46 of chap. 477 of the Laws of 1862, hereby reports, as follows, to wit, that he held the office of ..... in the ..... Regiment, ... Brigade, and ..... Division of the ..... National Guard of this State; that on the ..... day of ....., ..., in consequence of which the undersigned was rendered supernumerary in said office, and as such supernumerary officer he makes this report, and claims all the rights and privileges given him by law.

Dated ....., 186 .

(No. 11.)

GENERAL HEAD-QUARTERS, STATE OF NEW YORK,
Adjutant-General's Office, Albany.

I hereby certify, that ....., of the county of ....., being in commission as ..... of the militia of the State of New York, has, pursuant to the militia laws, reported himself to this office as a supernumerary officer, and is thereby exempt from the performance of military duty, except in case of war, invasion or insurrection.

In witness whereof, I have hereunto set my hand and the [L. S.] seal of this department, this ..... day of ..... one thousand eight hundred and .....

.....

Adjutant-General.

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(No. 12.)

RESIGNATION.

See §§ 82, 83, 84, 85.

To .....

Adjutant-General of the State of New York.

SIR—The undersigned would respectfully represent that he now holds the office of ..... in the ..... Regiment, ... Brigade, and ..... Division of the National Guard of this State, and that in consequence of

.....

.....

.....

.....

he is induced to resign said office, and doth hereby resign the same.

Your petitioner respectfully represents that he is not under arrest, or returned to court-martial for any deficiency or delinquency; and that he has delivered over all moneys, books, and other property of the State in his possession, to the officer authorized by law to receive the same, and that his accounts for money or public property are correct; and your petitioner respectfully solicits that you will be pleased to accept this his said resignation, and grant him a discharge.

.....

Dated at ....., this ..... day of ....., 186 .

The resignation of the above named officer is approved for the following reasons:.....

.....

.....

.....

.....

Brigadier-General Commanding .... Brigade N. G. S. N. Y.

The commanding officers of brigades shall receive the resignations of such commissioned officers as may resign in their respective brigades, and shall transmit the same to the Adjutant-General. Resignations of all other commissioned officers shall be made direct to the Commander-in-Chief.

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(No. 13.)

ACCEPTANCE OF RESIGNATION.

See § 83.

STATE OF NEW YORK, GENERAL HEAD-QUARTERS,
Albany, ..., 186 .

Special Orders, No. ....

The Commander-in-Chief has accepted the resignation of ....., and he is hereby, at his own request, honorably discharged from said office.

By order of the Commander-in-Chief.

.....
Adjutant-General.

(No. 14.)

ORDER FOR COMPANY ELECTION.

See § 60.

HEAD-QUARTERS, ... REGIMENT N. G. S. N. Y.,
....., 186 .

Special Orders, No. ....

Pursuant to the laws governing the militia of this State, an election is hereby ordered to be held on the ..... day of ....., 186 , at ..... at .... o'clock .... M., to fill the office of ..... in the ..... Regiment, ... Brigade, and ..... Division of the National Guard State of New York, which has become vacant by the ..... of .....

The commandant of the company in which such vacancy has occurred, will cause the proper notices of such election to be served upon those whom it may concern, at least three days before the day of such election.

By order of Colonel .....

.....
Adjutant of the .... Regiment N. G. S. N. Y.

NOTE. — This order will be issued for the election of a Captain or Lieutenant; and some field officer of the regiment should preside thereat.

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(No. 15.)

NOTICE FOR COMPANY ELECTION, AND ORDER DESIGNATING THE PERSON TO SERVE SAID NOTICE.

See §§ 60, 61, 62, 139.

To

You, and each of you, are hereby notified that an election will be held on the ..... day of ....., at ..... o'clock in the ..... noon of that day, at the house of ....., in the town of ....., and county of ....., for the purpose of choosing a suitable person to fill the office of ..... in the ..... Regiment, ... Brigade, and ..... Division of the National Guard of the State of New York, which has become vacant by the resignation of .....

And I do hereby designate, appoint and order Sergeant ..... to serve this notice on each and every of the above named persons, at least three days before the aforesaid election day, and to make due return to me of the time when he shall have respectively notified said persons, and the manner thereof.

.....

Dated at....., this ..... day of ....., 186 .

(No. 16.)

SERGEANT'S RETURN OF SERVICE OF FOREGOING NOTICE.

See §§ 61, 62, 63, 139.

Names.	Time of Serving Notice.	Manner of Serving Notice.			
		R.	S.	L.	A.

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I, the within named Sergeant ..... do hereby certify that the several persons named in the within notice were duly notified by me as within directed, at the times and in the manner set opposite to their respective names, that is to say, those marked R., by reading the said notice; those marked S., by stating the substance thereof; those marked L., by leaving a notice thereof, signed by me, at their usual places of abode; and those marked A., by affixing such notice on the outer door of their respective houses.

.....

Sergeant.

STATE OF NEW YORK, }
County of ....., } ss:

I certify that the above named ....., ... personally appeared before me, on the ..... day of ....., A. D. 186.., and duly made oath to the truth of the above return.

.....

Captain.

(No. 17.)

NOTICE TO AN OFFICER ELECT, AND ACCEPTANCE.

See §§ 61, 139.

To .....

SIR—At an election this day held, in pursuance of the Militia Laws of this State, at the house of ....., in the town of ....., you were duly chosen to fill the office of ..... in the ..... Regiment, ... Brigade, and ..... Division, of the National Guard of this State. As presiding officer at said election, it becomes my duty to notify you of your election, and to request that you will signify to me your acceptance within ten days after the receipt hereof, otherwise you will be considered as declining.

Respectfully, your obedient servant,

.....

and Presiding Officer.

Dated at ....., this .... day of ..... A. D. 18...

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I hereby signify my willingness to serve in the office of ....., to which I have been chosen, as stated in the above notice.

Dated at ....., this .... day of ....., A. D. 18...

.....

(No. 18.)

ORDERS FOR ELECTION OF FIELD OFFICERS OF REGIMENTS AND BATTALIONS.

See § 59.

HEAD-QUARTERS, ... BRIGADE,
.....DIVISION, N. G. S. N. Y., ...186...

Orders No. ....

Pursuant to the laws governing the militia of this State, an election is hereby ordered to be held on the ..... day of ..... 186.., at ..... at .... o'clock .... M., to fill the office of ..... in the ..... Regiment, ... Brigade, and ..... Division of the National Guard State of New York, which has become vacant by the ..... of .....

The commandant of the regiment in which such vacancy has occurred, will cause the proper notices of such election to be served upon those whom it may concern, at least five days before the day of such election.

By order of Brigadier-General.

.....

Brigade Inspector .... Brigade, N. G. S. N. Y.

NOTE. — This order will be issued for the election of a field officer or brigade inspector, at which the commandant of the brigade will preside. If for a brigade inspector, the word "regiment" and the whole of the last clause should be stricken out, and should be signed by some officer of the brigade staff as *acting* brigade inspector, who should cause to be served the proper notices upon those whom the election concerns, at least ten days before the day of such election.

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(No. 19.)*

NOTICE FOR ELECTION OF FIELD OFFICERS OF REGIMENT OR BATTALION.

See §§ 53, 59.

To

Commissioned Officers of the ..... Regiment.

You, and each of you, will take notice that an election will be held on the ..... day of ..... at .... o'clock, in the ..... noon of that day, at the ..... house of ....., in the town of ..... and county of ....., for the purpose of choosing a suitable person to fill the office of ....., in the ..... Regiment, ... Brigade and .....Division of the National Guard of the State of New York, which has become vacant by the..... of ..... and I do hereby designate, appoint and order .... to serve this notice on each and every of the before named persons, at least five days before the aforesaid election day, and to make due return to me of the time when he shall have respectively notified said persons, and the manner thereof.

Dated at ....., this ..... day of ..... A. D. 186..

(No. 20.)

NOTICE FOR ELECTION OF FIELD OFFICER TO BE LEFT AT USUAL PLACE OF ABODE OF PERSON TO BE SERVED, IN CASE OF HIS ABSENCE.

To .....

You will please take notice, that an election will be held on the ..... day of ..... 186.., at .... o'clock, in the ..... noon of that day, at the ..... house of ..... in the town of ..... and county of ....., for

* N. B. For return of service of this notice, see Form No. 16.

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the purpose of choosing a suitable person to fill the office of ..... in the ..... Regiment, ... Brigade and ..... Division of the National Guard of the State of New York, which has become vacant by the ..... of .....

Dated this ..... day of ..... A. D. 186..

By order of Colonel .....

(No. 21.)

ORDER FOR ELECTION OF BRIGADIER-GENERAL.

See §§ 57, 53.

NATIONAL GUARD OF THE STATE OF NEW YORK,
HEAD-QUARTERS, ALBANY, ... 186..

In pursuance of chap. 477, of the Laws of 1862, the Commander-in-Chief hereby orders and directs that an election be held to fill the office of Brigadier-General of the ..... Brigade and ..... Division of the National Guard State of New York, which has become vacant by the ..... of ....., and ..... is hereby designated to preside at such election.

(No. 22.)*

NOTICE FOR ELECTION OF BRIGADIER-GENERAL.

See §§ 57, 58.

To

Field Officers of the .... Brigade, hereinafter mentioned.

You, and each of you, will hereby take notice, that in pursuance of an order of the Commander-in-Chief, dated ....., an election will be held on the ..... day of ..... 186.., at .... o'clock, in the ..... noon of that day, at the ..... house of ..... in the town of

* N. B. For form of return of service of this notice, see Form No. 16.

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..... and county of ....., for the purpose of choosing a suitable person to fill the office of Brigadier-General of the ..... Brigade, and ..... Division of the National Guard of the State of New York, which has become vacant by the ..... of ....., and ..... is hereby designated, ordered and directed to serve this notice on each and every of the above named field officers, at least ten days before the said election day, and to make due return to me of the time when he shall have respectively notified said officers and the manner thereof.

Dated at ..... 186..

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(No. 23.)

RECORD OF PROCEEDINGS—TO BE CERTIFIED BY THE PRESIDING OFFICER AT AN ELECTION, TO THE COMMANDING OFFICER OF BRIGADE.

See § 67.

Record of proceedings had at the Town of ..... on the ..... day of ..... A. D. 186..,
for the election of Officers to fill vacancies in the ..... Regiment, ... Brigade, and
..... Division of ..... of the National Guard of the State of New York.

Offices to be filled.	Names of candidates for each office.	No. of written votes for each candidate.	Names of persons duly elected.	In the room of whom elected, and the cause of vacancy.	Place of abode of the persons elected.

I certify the above to be just and true.

....., *Captain, and Presiding Officer.*

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(No. 24.)

NOTICE TO AN OFFICER ELECT.

See § 66.

To .....

SIR—At an election this day held, in pursuance of the Militia Laws of this State, in the ..... District, you were duly chosen to fill the office of ..... in the ..... Regiment ..... Brigade and ..... Division of the National Guard of this State. As presiding officer of said election, it becomes my duty to notify you of your election, and to request that you will signify to me your acceptance thereof within ten days after the receipt of this notice, otherwise you will be considered as declining the same.

Respectfully, your obedient servant,

.....

and Presiding Officer.

Dated at ....., this ..... day of ....., A. D. 18..

I hereby signify my willingness to serve in the office of ..... to which I have been chosen, as stated in the above notice.

Dated at ....., this..... day of ....., A. D. 18..

.....

(No. 25.)

OATH OF OFFICE.

(To be indorsed on the Commission and Copy thereof to be filed in the Adjutant-General's office.)

See §§ 74, 75, 76, 77.

STATE OF NEW YORK, } ss:
County of ....., }

I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States, and the Constitution of the State of New York; and that I will faithfully discharge the duties of the office of ..... (in the ..... Regiment, ... Brigade, and ..... Division) of the National Guard of the State of New York according to the best of my ability.

Subscribed and sworn to this .... day of .... before me,

.....

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(No. 26.)

Return of non-commissioned officers elected, to be certified by commanding officers of companies, to commanding officers of regiment, or separate battalion, in order that warrants may be issued to the persons duly elected.

See § 79.

Return of Non-Commissioned Officers elected in the Company of ..... under the command of ..... in the ..... Regiment, ... Brigade, and ..... Division of the National Guard S. N. Y.

	Names of persons elected.	Time when.	Place of abode.	In the room of whom and the cause of vacancy.
Sergeants.				
Corporals.				

I certify the above return .....

....., *Captain.*

(No. 27.)

WARRANT TO NON-COMMISSIONED OFFICER.

See § 79.

To....., GREETING:

You having been duly elected and I thereupon having duly appointed you ..... in Company ..... of the ..... Regiment, ... Brigade and ..... Division of the National Guard of the State of New York, do, by virtue of the power vested in me, grant you this warrant. You are to obey the orders which you shall, from time to time, receive from your superior officers,

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and discharge with fidelity the duties of ..... according to the laws and regulations established for the government of the Militia of this State.

Given under my hand at ....., this ..... day of ....., A. D. 186..

.....

Commanding ..... Regiment N. G. S. N. Y.

.....

Adjutant.

(No. 28.)

RETURN OF STAFF OFFICERS APPOINTED, TO BE CERTIFIED BY COMMANDANTS OF REGIMENTS AND SEPARATE BATTALIONS TO BRIGADIER-GENERAL.

Return of Staff Officers appointed in the ..... Regiment, ... Brigade, and ..... Division of the National Guard of the State of New York:

Names.	Office.	Corps.	Time when.	Place of abode.	In room of whom appointed, and the cause of vacancy.

I certify the above to be a true return.

.....

Commanding ..... Regiment.

(No. 29.)

WARRANT APPOINTING LEADER OF REGIMENTAL OR BATTALION BAND.

See ante, § 112.

STATE OF NEW YORK.

To ....., GREETING:

Having appointed you Leader of the Band of Musicians in the ..... Regiment, ... Brigade, and .....

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Division of the National Guard of the State of New York, I do, by virtue of the power vested in me, grant you this warrant. You are to obey the orders which you shall, from time to time, receive from your superior officers, and discharge with fidelity the duties of such Leader, according to the laws and regulations established for the government of the Militia of this State.

Given under my hand at ....., this ..... day of ....., A. D. 186..

....

Commanding ..... Regiment N. G. S. N. Y.

....., *Adjutant.*

(No. 30.)

BOND FOR THE SAFE KEEPING AND RETURN OF ARMS, &c.

See ante, § 124.

STATE OF NEW YORK, HEAD-QUARTERS,
ADJUTANT-GENERAL'S OFFICE,
ALBANY, *February* 6, 1865.

General Orders, No. 5.

The accompanying form of Bond and County Clerk's Certificate, duly filled up and executed, will be filed in the Adjutant-General's Office before an order will be issued for supplying any officer or corps with ordnance, ordnance stores, small arms, equipments, camp equipage, or other military property of this State.

By order of the Commander-in-Chief.

WILLIAM IRVINE, *Adjutant-General.*

KNOW ALL MEN BY THESE PRESENTS, That I, ..., as principal, and ...., ..., as sureties, do, by these presents, hereby acknowledge ourselves bound unto the People of the State of New York, in the penal sum of ..... dollars, to the payment whereof we, jointly and severally, bind ourselves, our executors, administrators and assigns, unto the said People of the State of New York, if default shall be made in the condition following.

Sealed with our seals and dated the ..... day of ..... 186..

The condition of this obligation is such, that whereas, by the order of the Commander-in-Chief, ... been this day issued and delivered to the above bounden ...., for the use of his military command, pursuant to sec. 124 of the Militia Laws of this State.

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Now, therefore, if the said .... shall safely keep the said property, and, upon the demand of the proper authority, return the same, then this obligation to be void, otherwise to remain in full force and virtue.

Signed, sealed and delivered in presence of .....

....., [L. S.]
....., [L. S.]
....., [L. S.]

STATE OF NEW YORK, ... *County*, } ss:

On this ..... day of ....., A. D. 186.., came before me ...., personally known to me to be one of the individuals described in and who executed the within bond, and acknowledged that he executed the same, and who, being by me duly sworn, deposeth and saith, that he is a freeholder, and is worth, over and above all debts due and owing from him, at least the sum of* .....

STATE OF NEW YORK, ... *County*, } ss:

On this ..... day of ....., A. D. 186.., came before me ...., personally known to me to be one of the individuals described in and who executed the within bond, and acknowledged that he executed the same, and who, being by me duly sworn, deposeth and saith, that he is a freeholder, and is worth, over and above all debts due and owing from him, at least the sum of* .....

* Each surety shall justify in twice the penalty of the Bond.

STATE OF NEW YORK, ... *County*, } ss:

I, ..., clerk of the county of ....., do hereby certify that ...., whose name is subscribed to the above certificates, was, at the time of taking such proof or acknowledgment, a ....., and duly authorized to take the same; and further, that I believe the signature to the said certificate to be genuine.

In testimony whereof, I have hereunto set my hand and affixed the seal of said county, this ..... day of ....., A. D. 186..

[L. S.]

...., *Clerk.*

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(No. 31.)*

BOND OF COMPANY OFFICERS FOR SAFE RETURN OF PROPERTY, &C.

See § 129.

KNOW ALL MEN BY THESE PRESENTS, That we .....
.....,
as principals, and we .....
....., as sureties, do hereby acknowledge ourselves bounden unto the People of the State of New York in the penal sum of ..... dollars, to the payment whereof we, the said principals and sureties, hereby jointly and severally firmly bind ourselves, our executors and administrators unto the said People of the State of New York.

Sealed with our seals and dated the ..... day of ....., 186..

The condition of this bond is such that whereas the above bounden .....,
the officers of ..... Company .....
Regiment of the National Guard of the State of New York, as such officers, have made application to the commanding officer of their said regiment for the following arms and equipments, belonging to the said People, to wit: .....
.....
.....;
and the said commanding officer of the said regiment having this day delivered to the said officers of said company the said arms and equipments, in pursuance of § 129 of chap. 477 of the Laws of 1862; now, therefore, if the said .....
.....
shall safely keep the said property, and, upon the demand of the proper authority, return the same, then this obligation to be void, otherwise to remain in full force and virtue.

Signed, sealed and delivered in the presence of .....

....., [L. S.]
....., [L. S.]
....., [L. S.]

* This bond must have appended to it certificates of acknowledgment and of justification of sureties, &c., the same as are appended to the bond set forth in No. 30.

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(No. 32.)

COLONEL'S CERTIFICATE TO THE ADJUTANT-GENERAL AS TO NUMBER IN COMPANY.

See ante, §§ 26, 119.

I hereby certify that Company ..... of the ..... Regiment of the National Guard of this State, commanded by ....., comprises thirty-two non-commissioned officers and privates, and that said non-commissioned officers and privates regularly attend the drills and parades of said company and have been furnished with arms.

In witness whereof, I have hereunto subscribed my name, this ..... day of ....., 186..

.....

Colonel of ..... Regiment N. G. S. N. Y.

(No. 33.)

ADJUTANT-GENERAL'S CERTIFICATE AS TO NUMBER IN COMPANY.

See § 119.

GENERAL HEAD-QUARTERS, STATE OF NEW YORK,
ADJUTANT-GENERAL'S OFFICE, *Albany*, ..., 186..

I certify, that Company ..... of the ..... Regiment of the National Guard of this State, commanded by .....
comprises thirty-two non-commissioned officers and privates, and that it appears by the certificate of the Colonel of the Regiment to which such Company is attached, that the said non-commissioned officers and privates regularly attend the drills and parades of said Company, and have been furnished with arms.

In witness whereof I have hereunto set my hand and the seal of this Department, this ..... day of ..... A. D. one thousand eight hundred and sixty-.....

.....

Adjutant-General.

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(No. 34.)

DEMAND FOR COMPANY ARMORY.

See §§ 26, 119.

To the Supervisors of the County of .....

The Captain of Company ..... of the ..... Regiment of the National Guard of the State of New York, respectfully shows as follows, to wit: That the said Company District of said Company is situated within the said County of ..... that the said Company was duly organized under chapter 477 of the Laws of 1862, and comprises sixty-four non-commissioned officers and privates, who regularly attend drills and parades of said Company, and have been furnished with arms. The said Captain, in behalf of said Company, therefore, demands a suitable armory, drill-room and place of deposit for the safe keeping of such arms, uniforms, equipments, accoutrements and camp equipage as shall be furnished said Company, under the provisions of said chapter 477 of the Laws of 1862.

Dated at ..... 186..

....., *Captain.*

Approved and countersigned by

.....

Colonel of ..... *Regiment N. G. S. N. Y.*

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(No. 35.)

PARADE RETURN

Of the ..... Regiment N. G. S. N. Y., commanded by Colonel ..... had on the ..... day of ..... 186.. in compliance with Regimental Order, dated the .....

What officer in command.	What parade ground or drill room, and what length of time.	Whether for training, disciplining and improving in martial exercise, or how otherwise employed.

I certify the above to be a true return.
Witness my hand, this ..... day of ..... A. D. 186..

.....
Adjutant of the ..... Regiment.

N. B.—This statement must be certified by the Adjutant (or officer performing the duty of Adjutant) and must be returned to the Brigade Inspector *within* 20 *days after any Regimental Parade*, pursuant to § 155, of chap. 477 of 1862.

(No. 36.)

Return of absent officers, non-commissioned staff officers and musicians of the ..... Regiment National Guard S. N. Y., from the parade of the ..... day of ....., 186..

Names.	Residence.	Remarks.

I certify, on honor, that the above return is true.

.....
Adjutant.

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(No. 37.)

Muster Roll (made in pursuance of § 133 *of chap.* 477 *of* 1862, *as amended by chap.* 612 *of* 1865) *of each commissioned and non-commissioned officer, musician and private, present and absent, at the annual parade of the* ..... *Regiment,* ..... *Brigade, National Guard of the State of New York, held at* ....., *in the county of* ....., *on the* ..... *day of* ....., 186..

Grade.	Name.	Present.	Absent.
Total, ...			

....., 186..

I hereby certify the above muster roll to be correct.

.....

Commanding ..... *Regiment.*

(No. 38.)

ANNUAL PARADE MUSTER ROLL OF FIELD AND STAFF OFFICERS.

Muster Roll (made in pursuance of § 133 *of chap.* 477 *of* 1862, *as amended by chap.* 612 *of* 1865) *of each field, commissioned and non-commissioned staff officer of each regiment, separate battalion or battery, present or absent, at the annual parade of the* ..... *Brigade,* ..... *Division of the National Guard of the State of New York.*

Regiment.	Grade.	Name.	Present.	Absent.
Total, ...				

....., 186..

I hereby certify the above muster roll to be correct.

.....

Brigade Inspector of ..... *N. G. S. N. Y.*

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(No. 39.)

SQUAD WARRANT AND RETURN.

See §§ 138, 139, 140.

To Sergeant ....., ... Company.

..... COMPANY, ... REGIMENT }
N. G. S. N. Y., ... 186.. }

Orders, No. .....

..... Sergeants of ..... Company will forthwith warn the several members belonging to their respective squads to appear for parade, fully uniformed, armed and equipped according to law and regulation, on the ..... day of ..... at ..... o'clock in the ..... noon, at ....., and will make return of their doings herein to me.

.....
Commanding ..... Company.

Squad List of Members warned in pursuance of the above Warrant.

Names of Persons warned.	Usual place of abode or business.	Manner of warning.			
		P. Personally.	L. Left.	A. Affixed.	N. F. Not found.

Return to above Warrant.

The several members named in said list were warned in the manner following, viz.: To those marked P., I either read said warrant or stated the substance thereof in the hearing of each of said persons, or gave a written or printed notice of the contents thereof, signed by me; with those marked L., being absent, I left a notice thereof, signed by me, at each place named, with a person of suitable age and dis-

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cretion; like notices, for those marked A., were affixed on the outer door of the respective places named, such persons not being found therein; and those marked N. F., could not be found. To the truth of the above return I accordingly make oath.

Sworn before me this .....
day of ..... 186... } ..... *Sergeant.*

.....
Commanding Company.

(No. 40.)

NOTICE OF WARNING TO PARADE.

See § 139.

To .....

You will take notice, that in pursuance of the directions contained in Orders No. ....., issued by Captain ...., Commandant of Company ....., ... Regiment, National Guard State of New York, dated ..... 186.., I do hereby warn you to appear for parade fully uniformed, armed and equipped according to law and regulation, on the ..... day of ....., 186 , at ..... noon of that day, at .....

Dated ..... 186..

.....
Sergeant in Company...., ... Regt. N. G. S. N. Y.

(No. 41.)

WARRANT OF ADJUTANT FOR PARADE — THE RETURN OF SAID WARRANT.

See § 148.

..... REGIMENT NATIONAL GUARD
S. N. Y., ... 186..

To .....

You are required to warn the following officers, non-commissioned staff officers and musicians (whose names are contained in the annexed list, and whose notices, containing the contents of this warrant, accompany the same), for the parade

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ordered for the ..... day of ..... line to be formed on ..... at ..... o'clock in the ..... noon, and appear before the commandant of the regiment immediately after performing your duties as herein required and previous to such parade, and make oath to the truth of your return.

..... *Adjutant of* ..... *Regiment.*

List of Officers, &c., to be Warned.

Names.	Usual place of abode or business.	Manner of Warning.		
		P. Personally.	L. Left.	N. F. Not found.

Return to Warrant.

The several persons named in said list were warned in the manner following, viz.: To those marked P., I gave a written or printed notice (such as was inclosed in said warrant) of such parade, or read to them in person the within warrant; those marked L., being absent, I left a notice at each place named, with a person of suitable age and discretion; those marked N. F., I could not find. To the truth of the above return I accordingly make oath.

Sworn before me this.....
day of ....., 186..

.....

Commanding ..... *Regiment.*

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(No. 42.)

BRIGADIER-GENERAL'S RETURN OF OFFICERS ENTITLED TO BE DISCHARGED.

Return to the Adjutant-General's Department of commissioned officers in the ..... Brigade, National Guard, State of New York, entitled to be discharged from further service in the military forces of this State.

Name.	Office.	Letter of Company.	No. of Regim't.	Date of Order of Acceptance of Resignat'n.	Place of Abode.	Post-office.	County.

HEAD-QUARTERS,.....BRIGADE,.....DIVISION, N. G. S. N. Y.
.....186..

To Brigadier-General.....
Adjutant-General.

GENERAL: In pursuance of paragraph 96, of the General Regulations, I have the honor to return to the Adjutant-General's Department, for the proper certificate of discharge from further service in the military forces of this State, the above named officer.., who ha.. honorably and faithfully performed the duties required of..... by the Military Statutes of this State for the period of seven years; and remain,

Very Respectfully, &c.,

....., *Brigadier-General.*

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(No. 43.)

DISCHARGE OF COMMISSIONED OFFICER BY ADJUTANT-GENERAL.

GENERAL HEAD-QUARTERS, STATE OF NEW YORK,
ADJUTANT-GENERAL'S OFFICE, *Albany*,...., 186..

Special Orders No. .....

It appearing by the return of ..... General ..... commanding the ..... N. Y. S. M., that ..... of the ..... has faithfully and honorably performed the duties required of him by the Military Statutes of the State, and is, under such statutes, entitled to be discharged from further service in the militia. Therefore, in pursuance of paragraph 96 of the General Regulations ..... is hereby honorably discharged from further service in the military forces of the State, except in the case of war, insurrection or invasion.

By order of the Commander-in-Chief.

.....

Adjutant-General.

(No. 44.)

DISCHARGE OF COMMISSIONED OFFICER BY COMMANDER-IN-CHIEF.

To all to whom these presents shall come, GREETING:

By virtue of the powers vested in me by the Constitution and military statutes of the State of New York, as Commander-in-Chief of the military forces thereof, I have this day granted, and by these presents do grant unto ..... of ....., in the county of ....., on his resignation of the office of ..... the ..... N. G. S. N. Y., an honorable discharge from further service in the military forces of the State, except in the case of war, insurrection or invasion.

In testimony whereof, I have set my hand, and caused to be affixed hereto the military seal of the State, at the city of

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Albany, the ..... day of ....., in the year of our Lord one thousand eight hundred and .....

.....

Commander-in-Chief.

Special Orders, No. ...., 186..

Passed the Adjutant-General's Office.

.....

Adjutant-General.

(No. 45.)

PRIVATE'S CERTIFICATE OF MEMBERSHIP.

..... Regiment, ... Brigade and ..... Division National Guard of the State of New York.

To all to whom these presents shall come or may concern:

Know ye, that ..... is a private in the Company under my command, designated as "...." Company, in the ..... Regiment of the National Guard of the State of New York, and as such is entitled to all the privileges and advantages appertaining thereto.

In witness whereof, I have hereunto set my hand, the .... day of ....., in the year of our Lord one thousand eight hundred and sixty-.....

Countersigned.

.....

Captain Commanding [..] *Company.*

.....

Colonel Commanding [..] *Regiment.*

(No. 46.)

CERTIFICATE SHOWING THAT NON-COMMISSIONED OFFICER, MUSICIAN OR PRIVATE IS ENTITLED TO BE DISCHARGED.

See §§ 146, 307.

I hereby certify that ....., who is now a ..... in ..... Company, ... Regiment National Guard of the State of New York, has regularly and faithfully performed the duties required of him by the military statutes of this State, for the period of seven

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years, as appears of record upon the rosters of this company, and that he has duly turned over or satisfactorily accounted for all property issued and charged to him.

Dated at ....., 186..

.....

Captain Commanding .... Company.

To .....

Colonel Commanding .... Regiment.

(No. 47.)

DISCHARGE OF NON-COMMISSIONED OFFICER, MUSICIAN OR PRIVATE.

See § 146.

HEAD-QUARTERS, ... REGIMENT N. G. S. N. Y.,
....., 186..

Special Orders, No. ...

It duly appearing by the certificate of ....., Captain commanding Company ....., ... Regiment National Guard State of New York, that ....., a member of the said company, has regularly and faithfully performed in said company the duties required of him by the military statutes of this State, for the period of seven years, and has duly turned over or satisfactorily accounted for all property issued and charged to him; now therefore, in pursuance of the aforesaid statutes, ..., the said ..... is hereby honorably discharged from further service in the military forces of this State, except in case of war, insurrection or invasion.

.....

Colonel Commanding ..... Regiment.

(No. 48.)

COLONEL'S CERTIFICATE OF DISCHARGE TO NON-COMMISSIONED OFFICER, MUSICIAN OR PRIVATE.

STATE OF NEW YORK.

To all to whom these presents shall come, GREETING:

By virtue of the authority vested in me by the military statutes of the State of New York, as Colonel Commanding

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the ..... Regiment in the ..... Brigade and ..... Division of the Militia, I have this day granted, and by these presents do grant, unto ...., of ....., in the county of ....., a ..... in the ..... Regiment, an honorable discharge from further service in the military forces of the State, except in the case of war, insurrection or invasion.

Given under my hand at ....., in the county of ....., and State of New York, this ..... day of ....., A. D. 186..

....

Colonel Commanding ..... Regiment.

(*Special Orders, No.* .., 186..)

....., *Adjutant.*

(No. 49.)

COLONEL'S RETURN TO ADJUTANT-GENERAL OF DISCHARGES GRANTED.

See § 146.

Return of all discharges granted by the commanding officer of the regiment to non-commissioned officers, musicians and privates, in the ..... Regiment National Guard State of New York, during the six months previous to the first day of January (or July, as the case may be), in the year 186..

Names of the persons discharged.	Grades.	Letter of Company.	Time when discharges granted.	Causes for which discharges were granted.

Dated at ....., 186..

I hereby certify the foregoing return to be true.

....

Colonel Commanding ..... Reg't N. G. S. N. Y.

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(No. 50.)

RETURN OF COMMANDANT OF COMPANY TO BE FURNISHED AT THE ANNUAL INSPECTION, TO THE BRIGADE INSPECTOR.

See § 154.

19 *Inspection Return of Captain ..... Company of ..... in the ..... Regiment of National Guard, State of New York, commanded by Colonel ..... taken the ..... day of ..... 186..*

	Captain.	1st Lieutenant.	2d Lieutenant.	Sergeant.	Corporals.	Drummer.	Fifer.	Bugler.	Privates.	TOTAL. Officers, non-commissioned officers, musicians and privates.		Colors.	Uniforms.	Swords.	Drum.	Fife.	Bugle.	Rifles.	Muskets.	Bayonets.	Cartridge boxes.	Steel rods.	Scabbards and belts.	Flints.	Wires and brushes.	Worms.	Knapsacks.	Pouches.	Powder horns.	Cartridges with balls.	Loose balls.	Pounds powder.	Whole number enrolled in Company District.
Present on parade.											Total equipments.																							
Absent from parade.											* Do unfit for service.																							
Total present and absent.											Do inspected.																							

* This column must be filled by the officer acting as Inspector, and subtracted from the 1st column.

N. B — This form must also be used on Company and Regimental parades, and a copy must be sent to the officer commanding the Regiment. On Inspection parades a copy of such return must also be delivered to the Inspector. If no Inspector attends, the Commanding Officer must inspect the Company, and send the return to the Inspector

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(No. 51.)

RETURN OF COMMANDANT OF REGIMENT TO BRIGADE INSPECTOR.*

See § 155.

Inspection return to Brigade Inspector of the Field, Staff, Non-Commissioned Staff Officers, Sappers and Miners, and Musicians of the ..... Regiment, ... Commanding.

	FIELD.			STAFF.							NON-COM. STAFF.						S. & M.		MUSICIANS.						REMARKS.
	Colonel.	Lieut.-Colonel.	Major.	Adjutant.	Engineer.	Surgeon.	Quartermaster.	Paymaster.	Surgeon's Mate.	Chaplain.	Sergeant-Major.	Qr. Mast.-Sergeant.	Drum-Major.	Trumpet-Major.	Sgt. Std. Bearer.	Sgt. Std. Bearer.	Sgt. Sap. & Miners.	Sappers & Miners.	Snare Drummers.	Bass Drummers.	Bugler.	Fifer.	Musicians attached to Band.	Total of Officers, Non-Commissioned Officers, Sappers and Miners, and Musicians of Regiment.	
Present on parade.																									
Absent from parade.																									
Total present and absent.																									
Uniformed, Armed and Equipped, according to Regulations.																									
Uniformed, Armed and Equipped, not according to regulations.																									

HEAD-QUARTERS ..... REGIMENT N. G. S. N. Y.,
..... 18..

I hereby certify that the above return is a true return of an inspection of the Field, Staff, Non-Commissioned Staff, Sappers and Miners, and Musicians of the ..... Regiment, made the ..... day of ....., A. D. 18..

....., *Commanding Regiment.*

* N. B. — To be delivered within twenty days after annual inspection.

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(No. 52.)

Inspection Return of the ..... Regiment of ..... commanded by ..... in the ..... Brigade, whereof ..... is Commandant, taken the ..... day of ....., 186..

	PRESENT ON PARADE.															ABSENT FROM PARADE.														
	FIELD AND STAFF.															FIELD AND STAFF.														
	Colonel.	Lieutenant-Colonel.	Major.	Adjutant.	Engineer.	Surgeon.	Quartermaster.	Assistant Surgeon.	Chaplain.	Sergeant-Major.	Q'rmaster-Sergeant.	Drum-Major.	Trumpet-Major.	Sergt Stand'rd Bearers.	Leaders of Band.	Musicians, attached to Band.	Sergeant Sappers and Miners.	Sappers and Miners.	Colonel.	Lieutenant-Colonel.	Major.	Adjutant.	Engineer.	Surgeon.	Quartermaster.	Assistant Surgeon.	Chaplain.	Sergeant-Major.	Q'rmaster-Sergeant.	Drum-Major.	Trumpet-Major.	Sergt. Stand'rd Bearers.	Leaders of Band.	Musicians, attached to Band.	Sergeant Sappers and Miners.	Sappers and Miners.

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(No. 52.)—Continued.

LETTER OF COMPANIES.	NAMES OF COMMANDING OFFICERS OF COMPANIES.	PRESENT ON PARADE. COM. OFF'S, NON-COM. OFF'S MUS. & PRIVATES.		ABSENT FROM PARADE. COM. OFF'S, NON-COM. OFF'S, MUS. & PRIVATES.		Total present and absent. Officers, non-com. officers, musicians and privates of regiment.	ORDNANCE, ARMS, ACCOUTREMENTS, &c., INSPECTED AND RETURNED FIT FOR SERVICE.		
		Captains.		Captains.			Nine-pounder.		
		Lieutenants.		Lieutenants.			Carriage and implements, complete.		
		Sergeants.		Sergeants.			Limber.		
		Corporals.		Corporals.			Caisson and separate parts, complete.		
		Snare Drummers.		Snare Drummers.			Six-pounder.		
		Fifers.		Fifers.			Carriage and implements, complete.		
		Buglers.		Buglers.			Limber.		
		Privates.		Privates.			Caisson and separate parts, complete.		
							Twenty-four-pound howitzer.		
		Total present.		Total absent.			Carriage and implements, complete.		
							Limber.		
							Caisson and separate parts, complete.		
Company A.							Twelve-pound howitzer.		
Company B.							Carriage and implements, complete.		
Company C.							Limber.		
Company D.							Caisson and separate parts, complete.		
Company E.									
Company F.									
Company G.									
Company H.									
Company I.									
Company K.									

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(No. 52.) — Continued.

ORDNANCE, ARMS, ACCOUTREMENTS, &c., INSPECTED AND RETURNED FIT FOR SERVICE.

Mountain howitzer.		
Carriage, limber and caisson, complete.		
Percussion muskets and bayonets.		
Percussion rifles.		
Flint pistols.		
Percussion pistols.		
Musquetoons, specify percussion or flint.		
Carbines, specify percussion or flint.		
Cavalry sabres, belts and plates.		
Artillery sabres, belts and plates.		
Artillery swords, belts and plates.		
Cartridge boxes and plates.		
Cartridge box belts and plates.		
Bayonet scabbard belts and plates.		
Waist belts and plates.		
Cap pouches.		
Pistol holsters.		
Non-com. officers' swords, belts and plates.		
Musicians' swords, belts and plates.		
Officers' swords.		
Horse equipments.		
Uniforms, regulation.		
Uniforms, irregular.		
Colors, national.		
Colors, regimental.		
Standards, cavalry.		
Guidons, cavalry.		
Snare drums.		
Fifes.		
Bugles.		
Colt's revolvers.		
Knapsacks.		
Haversacks.		

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(No. 52.)—Continued.

ARMS, &c, UNFIT FOR SERVICE.	NUMBERS ENROLLED IN COMPANY DISTRICTS, SUBJECT TO MILITARY DUTY UNDER THE LAWS OF THE UNITED STATES.	REMARKS.
		HEAD-QUARTERS, ... } ....., A. D. 186.. } I hereby certify the annexed Return to be a true return of an inspection of ..... Regiment, made the ..... day of ....., A. D. 186.. .....

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(No. 53.)

ANNUAL INSPECTION RETURN OF BRIGADE INSPECTOR.

See § 157.

Inspection return of the.....Brigade of infantry, commanded by Brigadier-General.....of the..... Division, whereof Major-General.....is the Commanding Officer, taken in the month of.....186...

MAJOR-GENERAL AND STAFF.															BRIGADIER-GENERAL AND STAFF.																		
PRESENT.								ABSENT.							PRESENT.							ABSENT.											
Major-General.	Div. Aids-de-Camp.	Div. Inspector.	Div. Engineer.	Div. Judge-Advocate.	Div. Hospital Surgeon.	Div. Quartermaster.	Div. Paymaster.	Major-General.	Div. Aids-de-Camp.	Div. Inspector.	Div. Engineer.	Div. Judge-Advocate.	Div. Hospital Surgeon.	Div. Quartermaster.	Div. Paymaster.	Brigadier-General.	Brig. Ald-de-Camp.	Brig. Inspector.	Brig. Engineer.	Brig. Hospital Surgeon.	Brig. Judge-Advocate.	Brig. Quartermaster.	Brig. Paymaster.	Brigadier-General.	Brig. Ald-de-Camp.	Brig. Inspector.	Brig. Engineer.	Brig. Hospital Surgeon.	Brig. Judge-Advocate.	Brig. Quartermaster.	Brig. Paymaster.	Nos. of Regiments.	Nos. of Battalion Regiments.	Nos. of Batteries.	Nos. of Squadrons.	
																																			Regiment.
																																			Regiment.
																																			Regiment.
																																			Regiment.
																																			Battalion Regiment.
																																			Battalion Regiment.
																																			Battery.
																																			Squadron.

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(No. 53.)—Continued.

| NAMES OF COMMANDING OFFICERS OF REGIMENTS. | No. of Companies in each Regiment, with Detachment of Sappers and Miners. | PRESENT ON PARADE. | | |

(No. 53.)—Continued.

Total present and absent.		Officers, non-com. officers, musicians and privates.
ABSENT FROM PARADE.	COM. OFF'S, NON-COM. OFF'S, MUS. AND PRIVATES.	Total Absent.
		Private.
		Bugler.
		Fifer.
		Bass Drummer.
		Snare Drummer.
		Corporals.
		Sergeants.
		Lieutenants.
		Captains.
		Sappers and Miners.
		Sergeant Sappers and Miners.
		Musicians, attached to Band.
		Leaders of Band.
	FIELD AND STAFF.	Sergeant Standard Bearer.
		Trumpet-Major.
		Drum-Major.
		Quartermaster Sergeants.
		Sergeant-Major.
		Chaplains.
		Assistant Surgeons.
		Paymasters.
		Quartermasters.
		Surgeons.
		Engineers.
		Adjutants.
		Majors.
		Lieutenant-Colonels.
		Colonels.

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(No. 53.)—Continued.

ORDNANCE, ARMS, ACCOUTREMENTS, &c., INSPECTED AND RETURNED FIT FOR SERVICE.

Nine-pounder.	
Carriage and implements, complete.	
Limber.	
Caisson and separate parts, complete.	
Six-pounder.	
Carriage and implements, complete.	
Limber.	
Caisson and separate parts, complete.	
Twenty-four-pound howitzer.	
Carriage and implements, complete.	
Limber.	
Caisson and separate parts, complete.	
Twelve-pound howitzer.	
Carriage and implements, complete.	
Limber.	
Caisson and separate parts, complete.	
Mountain howitzer.	
Carriage, limber and caisson, complete.	
Percussion muskets and bayonets.	
Percussion rifles.	
Percussion pistols.	
Musquetoons.	
Carbines.	
Cavalry sabres, belts and plates.	
Artillery sabres, belts and plates.	
Artillery swords, belts and plates.	
Cartridge boxes and plates.	
Cartridge box belts and plates.	
Bayonet scabbard belts and plates.	
Waist belts and plates.	
Cap pouches.	
Pistol holsters.	
Non-com. officers' swords, belts and plates.	
Musicians' swords, belts and plates.	
Officers' swords.	
Horse equipments.	
Uniforms.	
Colors, national.	
Colors, regimental.	
Standards, cavalry.	
Guidons, cavalry.	
Snare drums.	
Bass drums.	
Fifes.	
Bugles.	
Colt's revolvers.	
Knapsacks.	
Haversacks.	

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(No. 53.) — Continued.

ARMS, &c., UNFIT FOR SERVICE.	REPORT OF THE ARMS, EQUIPMENTS AND UNIFORMS OF GENERAL AND STAFF OFFICERS.			REMARKS.
	OFFICE.	NAME.	ARMED, EQUIPPED AND UNIFORMED, OR NOT, AS THE CASE MAY BE.	
	Major-General,			
	Div. Aid-de-Camp, Major,			
	Div. Aid-de-Camp, Major,			
	Div. Inspector, Colonel,			
	Div. Engineer, Colonel,			
	Div. Judge-Advocate, Colonel,			
	Div. Hospital Surgeon, Colonel,			
	Div. Quartermaster, Lt.-Col.,			
	Div. Paymaster, Major,			
	Brigadier General,			HEAD-QUARTERS.....BRIGADE, ...DIVISION, N. G. S. N. Y. .....A. D. 186..
	Brig. Aid-de-Camp, Capt.,			I hereby certify that the annexed Return is a true return of an inspection of the .....Brigade in the.....Division, made the....day of.....A. D. 186..
	Brig. Inspector, Major,			.....
	Brig. Engineer, Major,			*Brigade Inspector....Brigade.*
	Brig. Hosp. Surgeon, Major,			
	Brig. Judge Adv., Major,			
	Brig. Quartermaster, Capt.,			
	Brig. Paymaster, Capt.,			

NOTE. — The Brigade Inspector will omit adding or carrying into the total column, the columns for the General Officers and their Staffs, but will add up and carry into the total column all that follows, so that the foot of the total column shall contain every officer and man in the Brigade, once counted, except the General Officers and their Staffs. The Annual return will be completed *immediately* after the inspection shall be made, and will be *promptly* transmitted to the Adjutant-General's Office. The Brigade Inspector will transmit a duplicate thereof to the Inspector-General, (See § 157.)

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(No. 54.)

APPLICATION FOR COMPANY ORGANIZATION.

See §§ 20, 25, 29.

..... REGIMENTAL DISTRICT,
County of ....., 186..

To His Excellency, Commander-in-Chief of the Militia of the State of New York:

The petition of the undersigned persons, residing within the ..... Regimental District and ..... Brigade District N. G. S. N. Y., respectfully represent that, in pursuance of the provisions of the Militia Law of this State, your petitioners have associated together for the purpose of forming a company of ....., to be attached to the ..... Regiment, and have designated the following persons for their company officers, viz:

...., for Captain.
...., for First Lieutenant.
...., for Second Lieutenant.

And your petitioners further represent that they are all citizens of the United States, and that they do not belong to any other military organization, and that they will equip in the prescribed uniform, and they respectfully solicit your Excellency to organize them into a company of ....., as aforesaid, and to issue commissions to the said persons for the offices to which they are above respectively designated. And your petitioners will ever pray.

Names.	Years of age.	Place of Nativity.	RESIDENCE.		
			City or Village.	Post-Office.	County.

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(No. 55.)

CERTIFICATE AND CONSENT OF BRIGADIER-GENERAL FOR COMPANY ORGANIZATION.

HEAD-QUARTERS ..... BRIGADE,
..... DIVISION N. G. S. N. Y., ..., 186..

I hereby certify that I have caused to be assembled, and inspected the above petitioners, and that they are duly qualified to be organized into a company of ..... to be attached to the ..... Regiment of this Brigade, and being satisfied that they have the ability to equip themselves in the prescribed uniform, I hereby consent to their organization.

.....

Brigadier-General Commanding ..... Brigade.

(No. 56.)

APPROVAL AND RECOMMENDATION OF COLONEL FOR COMPANY ORGANIZATION.

HEAD-QUARTERS, ... REGIMENT N. G. S. N. Y.,
....., 186..

I hereby approve of and recommend the organization of the above petitioners into a company of ....., to be attached to this regiment, and to be designated by the letter

.....

Colonel Commanding ..... Regiment.

(No. 57.)

"ENLISTING ORDERS."

See § 162.

To the Officers and Members of .....

I am desirous of becoming a member of your corps:

My age is ....., my residence is ..... my occupation is ..... If admitted to membership, I will endeavor to perform all the duties required by the Militia Laws of the State of New York, and the constitution and by-laws of your

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corps; I will obey the commands of my superior officers, and use my best endeavors to become a good and efficient soldier.

Dated at..... this.....
day of ..... A. D. 186.. } .....

Report of Committee on Membership.

The committee to whom was referred the application of ..... to become a member of this corps, would report that they have performed the duty assigned them, and .....

Dated at ..... this .....
day of ..... A. D. 186..

.....
.....
..... } *Committee.*

..... COMPANY, ... REGIMENT N. G. S. N. Y.

Company Orders, No.....

..... having been admitted a member of this company, he is hereby required to sign the enlistment roll of the same and report himself for duty at the next meeting of the company thereafter.

By order of Captain .....

..... *Sergeant.*

(No. 58.)

ALPHABETICAL LIST OF MEMBERS OF COMPANY TO BE DELIVERED BY COMMANDING OFFICER OF COMPANY TO THE COMMANDING OFFICER OF THE CAMP OR POST.

See § 178.

The following is an alphabetical list of the members of Company ....., ... Regiment National Guard State of New York, who in camp duly appeared and performed military duty, uniformed, armed and equipped as the law and regulations direct, which had been by order dated ..... and issued by ..... ordered into said camp on the ..... day of ..... 186.., at ..... which list is made by the commanding officer of the said company, in pursuance of the requirements contained in section

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178, of chap. 477 of 1862, and in which list there is set opposite to each name the number of days each has performed such duty, and the amount of pay each member is entitled to receive, to wit:

Name of each member.	Grade.	Number of days performance of duty.	Amount of pay each member is entitled to.		Amount each member is indebted to State.
			Dollars.	Cents.	

Dated ..... 186..

STATE OF NEW YORK, }
County of ..... } SS:

I, ..., Captain commanding Company ..... Regiment National Guard State of New York, do hereby certify and solemnly swear that the foregoing alphabetical list, together with the facts therein stated, are correct and true.

Subscribed and sworn to this ..... day of ..... 186.., before me, }

.....

(No. 59.)

ADJUTANT-GENERAL'S CERTIFICATE OF ORGANIZATION AND LOCATION OF REGIMENT, BATTALION REGIMENT, BATTERY OR SQUADRON.

§§ 157, 183.

GENERAL HEAD-QUARTERS, STATE OF NEW YORK, }
ADJUTANT-GENERAL'S OFFICE, *Albany*, ..., 186.. }

I certify that the ..... of the National Guard of this State, commanded by ....., and located in the ....., is an organized ....., within the provisions of Part I of the Military Code of the State of New York.

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In witness whereof, I have hereto set my hand and the seal of this department, this ..... day of ..... A. D., one thousand eight hundred and sixty-.....

.....

Adjutant-General.

(No. 60.)

INSPECTOR-GENERAL'S CERTIFICATE.

See §§ 157, 183.

INSPECTOR-GENERAL'S OFFICE,
Albany, ..., 186..

I certify that the ..... National Guard State of New York, commanded by ....., and located in ....., has duly made a proper return of the annual inspection and muster rolls of said ..... and of the several companies therein, in pursuance of Part I of the Military Code of the State of New York, and that such rolls make a satisfactory exhibit of the number of the said ....., and of the State property issued thereto.

.....

Inspector-General.

(No. 61.)

RETURN OF DELINQUENTS.

See § 143.

A return of delinquents and deficiencies in the company commanded by ....., in the ..... Regiment of ..... of the National Guard of the State of New York, at a parade had at ..... on the ..... day of ....., A. D. 186..

Names.	Rank.	Statement of Delinquencies.	Penalty.

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I certify that the above return is just and true.
Witness my hand, this ..... day of ....., A. D. 186..

.....
Captain.

(No. 62.)

WARRANT TO BE ISSUED BY THE OFFICER HOLDING A COURT-MARTIAL FOR THE COLLECTION OF FINES.

See §§ 225, 226, 227.

The People of the State of New York, by the grace of God free and independent.

To any Constable of the county of ....., GREETING:

Whereas, at a ..... court-martial, held in pursuance of the Military Code of the State of New York, at the house of ....., in the town of ....., on the ....., day of ....., for the trial of all delinquents and deficiencies in the ..... Regiment of ..... of the National Guard of the State of New York aforesaid, the several delinquents named in the annexed list were duly fined the sums set opposite to their respective names.

These are, therefore, to command you to levy and collect said fines, together with your costs, according to law, of the goods and chattels of said delinquents, and in default of sufficient goods and chattels of any delinquent with which to satisfy the same, that then you take the body of such delinquent and convey him to the common jail of the ....; and of your doings herein make return to me, within forty days of the date of these presents.

Given under my hand and seal, this ..... day of ....., 186..

.....
President of said Board.

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(No. 63.)

LIST TO BE ANNEXED TO WARRANT TO COLLECT FINES, AND TO BE REPORTED TO THE OFFICER OF THE COURT-MARTIAL.

See § 225.

List of persons fined at a ..... Court-Martial, held at the house of ..... in the town of ..... on the ..... day of ..... for the trial of all delinquents and deficiencies in the ..... Regiment of ..... of the National Guard of the State of New York.

Names of delinquents.		Place of abode.	Co.	Am't of fines.	
				Dolls.	Cts.

Dated at ..... this ..... day of ..... 186..

.....

Commandant of ..... Regiment.

(No. 64.)

WARRANT TO BE ISSUED BY THE OFFICER HOLDING A COURT-MARTIAL, TO COMMIT A DISORDERLY PERSON.

§§ 237, 238, 239.

To all, or any, or either, of the Constables or Sheriffs of the county of ..... GREETING:

Whereas, at a regimental court-martial, this day held at the house of ..... in the town of ..... in pursuance of the Militia Law of this State, for the trial of all delinquents and deficiencies in the ..... Regiment of ..... of the National Guard of the State of New York, one ..... was in open court guilty of .....

and whereas, the said court did thereupon adjudge that the said ..... should be committed to the jail

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of the county of ..... there to remain, without bail or mainprize, in close confinement, for the space of .... day..

These are, therefore, in the name of the People of the State of New York, and by virtue of the said law, to command you forthwith to take the said ..... and convey him to the jail of the county of ..... aforesaid; and the sheriff or jailer of said county is hereby empowered and required to receive the body of the said ..... and him safely keep, without bail or mainprize, in close confinement, for the space of ..... day.., and until your fees and the fees of the said jailer shall be paid, or until he shall be discharged by due course of law.

Given under my hand and seal, in open court, this ..... day of ..... A. D. 186..

.....

(No. 65.)

WARRANT TO BE ISSUED BY THE PRESIDENT OF A COURT-MARTIAL, TO COMMIT A DISORDERLY PERSON.

See §§ 237, 238, 239.

To the Sheriff of ....., or to any or either of the Constables of ....., or the Marshal attending this court, GREETING:

Whereas, at a (division or brigade) court-martial of the ....., this day held at ....., in ....., in pursuance of the Militia Laws of this State, for the trial of A. B., of the ..... Regiment of the ..... Brigade of the ..... Division of the National Guard of the State of New York, one ....., was in open court guilty of (here state the offense); and whereas, the said court did thereupon adjudge that the said ..... should be committed to the jail of the county of ....., there to remain, without bail or mainprize, in close confinement, for the space of ..... day..: These are, therefore, in the name of the People of the State of New York, and by virtue of the said law, to command you forthwith to take the said ....., and convey him to the jail of the said county of .....; and the sheriff or jailer of said county is hereby empowered and required to receive the body of the said .....,

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and him safely keep, without bail or mainprize, in close confinement, for the space of ..... day.., and until his fees and the fees of the said jailer shall be paid, or until he shall be discharged by due course of law.

Given under my hand and seal, in open court, this ..... day of ....., A. D. 186..

.....

President of the said Court.

(No. 66.)

WARRANT TO PERSON APPOINTED MARSHAL, TO BE GRANTED BY THE PRESIDENT OF A COURT-MARTIAL.

See §§ 241, 242.

To .....

You having been appointed marshal for ..... court-martial, for the trial of ..... of the ..... Regiment, of the ..... Brigade of the ..... Division of the National Guard of the State of New York, I do, therefore, by virtue of the power in me vested, as president of the said court, grant you this warrant. You are to obey the orders which you shall from time to time receive from the said court, and execute the duties of marshal with fidelity, according to the laws and regulations established for the government and discipline of the militia aforesaid.

Given under my hand and seal, at ....., this ..... of ....., A. D. 186..

.....

President of the Court.

(No. 67.)

SUBPŒNA TO TESTIFY BEFORE A COURT-MARTIAL.

See § 232.

To .....

Your are hereby commanded, in the name of the People of the State of New York, personally to be and appear before a ..... court-martial, for the trial of ....., of the ..... Regiment ..... Brigade of the New York

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State National Guard, to be held at the ....., on the ..... day of ....., at ..... o'clock in the .... noon of that day, to testify all you know in the matter depending, and then and there to be tried, between the said People and ..... on the part of ....., and this do not omit, on pain of fifty dollars.

Witness my hand, this ..... day of ..... A. D. 18..

.....

President of the Court.

(No. 68.)

FORM OF AN ORDER FOR ARREST.

BRIGADE (DIVISION OR GENERAL) ORDER.

HEAD-QUARTERS OF THE (BRIGADE OR DIVISION) OF THE NATIONAL GUARD OF THE STATE OF NEW YORK, ... 186..

To .....

You are hereby forthwith directed to repair to the quarters of ..... (here insert the Regiment, Brigade and Division) of the militia of the State of New York. You will then and there cause ..... to be arrested, by reading this warrant to him, or leaving a certified copy thereof at his quarters, that the said ..... may be brought to answer certain charges and specifications of unmilitary conduct. Of your doings hereof make due return to me without unnecessary delay.

..... *General, &c.*

(No. 69.)

FORM OF AN ORDER DIRECTED TO AN ARRESTED OFFICER, COMMANDING HIM TO DELIVER BOOKS, PAPERS, &C.

HEAD-QUARTERS, &C. ..... 186..

.... *Orders.*

To .....

Sir: You are hereby directed forthwith to deliver all books, papers, moneys and other property in your possession, belong-

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ing to the (Regiment, Brigade or Division), to ..... to the end that the same may be held by him, the said ....., until the charges on which you have been arrested shall have been investigated.

..... *General.*
..... *Aid-de-camp.*

(No. 70.)

RETURN OF CHIEF OF STAFF TO BE MADE ON OR BEFORE NOVEMBER 1ST IN EACH YEAR.

See § 250.

The annual return of ..... Chief of the Staff of the ..... to ..... Commandant of the ..... National Guard State of New York, of the names of all commissioned officers of the said ..... absent from any parade, encampment or drill, which they were by law required to attend.

Name of each officer absent.	His grade.	When absent.	From what and where absent.

Dated at ..... 186..

I hereby certify the above to be a true return.

.....

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(No. 71.)

Annual Return of Ordnance and Ordnance Stores in possession of ..... Regiment, ... Brigade, ... Division, of the National Guard S. N. Y.

REGIMENT.	Letter of Company.	NAME OF CAPTAIN COMMANDING.	Ball cartridges.	Spherical, 69.
				Expanding, 69.
				Expanding, 67·7 and 68.
				Expanding, 64.
				Spherical, 64.
				Blank cartridges.
				Pistol ball cartridges.
				Carbine ball cartridges.
				Percussion caps.
				Friction primers.
				Maynard primers.
			Cannon powder.	Barrels (100 lbs.)
				Kegs.
				Cartridge bags (6-pdr.)
				Cartridge bags (12-pdr.)
			Artillery Projectiles.	For 12-pdr. howitzer. — Shells.
				For 12-pdr. howitzer. — Balls.
				For 12-pdr. howitzer. — Canister.
				Balls for 9-pdr.
				For 6-pdr. Guns. — Balls.
				For 6-pdr. Guns. — Balls with sabot strapped.
				For 6-pdr. Guns. — Canister fixed.
				For 6-pdr. Guns. — Canister with sabot strapped.
				Hand grenades, 6-pdr.
				For Parrott's 20 pdr. — Shells, P. P.
				For Parrott's 20 pdr. — Shells, P.
				For Parrott's 20 pdr. — Case shot, fitted.
				Shells, P. P. Delafield, bore 86·7.
				Beech fuse plugs.
				For Parrott's 10-pdr. — Shells, P. P.
				For Parrott's 10-pdr. — Shells, P.
				For Parrott's 10-pdr. — Canister shot, fitted.

(No. 72.)

Special return of the ..... Regiment, ... Brigade, and ..... Division of the National Guard of the State of New York, ... Commanding.

Regimental position.	Grade.	NAMES.	Arm of service in which the corps does duty.	Non-commissioned officers, musicians and privates.	Total officers, non-commissioned officers, musicians and privates.	ARTILLERY. Nine-pounder—specify iron or bronze.	Cartridge.	Limber.	Caisson.	Six-pounder—specify iron or bronze.	Cartridge.	Limber.	Caisson.	Twenty-four-pound howitzer.	Cartridge.	Limber.	Caisson.	Twelve-pound howitzer.	Cartridge.	Limber.	Caisson.	Mountain howitzer.	Cartridge, limber and caisson.	Musquetoon (percussion).	Musquetoon (flint).	Artillery sabres.	Artillery sabre belts and plates.	Artillery swords.	Artillery sword belts and plates.	Flint pistols.	Percussion pistols.
FIELD.	Colonel, Lt.-Colonel, Major,																														
STAFF.	Adjutant, Engineer, Surgeon, Quartermaster, Paymaster, Surg. Mate,																														
NON-COM. STAFF.	Chaplain, Sgt.-Major, Q. M. Sgt., Drum-Major, Trpt.-Major,																														
R. FLANK COMPANY OR L. COMP'Y.	Sgt. Std. B. Captain. 1st Lieut., 2d Lieut.,																														
L. FLANK COMPANY.	2d Lieut., Captain, 1st Lieut.,																														
A. COMPANY.	2d Lieut., Captain, 1st Lieut.,																														
	2d Lieut.,																														

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(No. 72.)—CONTINUED.

CAVALRY.		
Cavalry sabres.		
Sabre belts and plates.		
Carbines.		
Carbine cartridge boxes and belts.		
Carbine slings.		
Musquetoon (percussion).		
Musquetoon (flint).		
Flint pistols.		
Percussion pistols.		
Pistol holsters.		
INFANTRY AND RIFLES.		
Percussion muskets and bayonets.		
Flint muskets and bayonets.		
Flint rifles.		
Percussion rifles.		
Cartridge boxes and plates.		
Cartridge box belts and plates.		
Bayonet scabbards.		
Bayonet scabbard belts.		
Waist belts and plates.		
Cap pouches.		
Non-com. officers' swords, belts and plates.		
Musicians' swords, belts and plates.		
MISCELLANEOUS.		
Uniforms.		
Colors (national).		
Colors (regimental).		
Standards (cavalry).		
Guidons (cavalry).		
Snare drums.		
Rifles.		
Bugles.		
Base drums.		
Colt's revolvers.		
Knapsacks.		
Haversacks.		

Head-Quarters, ... Regiment N. G. S. N. Y.,
.....18..
I hereby certify the above return to be correct.
..... *Commanding Regiment.*

REMARKS.

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(No. 73.)

REQUISITION

For Clothing, Camp and Garrison Equipage, for ..... Regiment of New York State National Guard, Head-Quarters, ..., 186..

For

I certify that the above is correct; that the articles specified are necessary for the public service; and that the men for whom this requisition is made have been duly enrolled and inspected. .....

....., *Quartermaster.*

I certify that the above is correct.

....., *Commanding.*

Dated ....., 186..

INSPECTOR-GENERAL'S OFFICE,
ALBANY, ..., 186..

I certify that the above named regiment has been duly organized and inspected.

.....

Inspector-General.

GENERAL HEAD-QUARTERS, S. N. Y.,
ADJUTANT-GENERAL'S OFFICE, ALBANY, ..., 186..

Approved, the proper security having been filed in this office.

By order of the Commander-in-Chief.

....., *Adjutant-General.*

(*Special Order No. ..*)

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(No. 74.)

A Morning Return

Of Captain ..... Company of the ..... Regiment and ..... Brigade, for the ..... day of ....., 186..

PRESENT.																		ABSENT.										Total Present and Absent.
FOR DUTY.										SICK.																		
Captain.	First Lieutenant.	Second Lieutenant.	Sergeants.	Corporals.	Buglers.	Musicians.	Farriers and Blacksmiths.	Artificers.	Privates.	Captain.	First Lieutenant.	Second Lieutenant.	Non-commissioned officers.	Musicians.	Farriers and Blacksmiths.	Artificers.	Privates.	Total Present.	Captain.	First Lieutenant.	Second Lieutenant.	Non-commissioned officers.	Musicians.	Farriers and Blacksmiths.	Artificers.	Privates.	Total Absent.	

I certify the above to be a true return,

....., 186..

....., *Captain.*

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(No. 75.)

Report of a Guard mounted at ..... on the ..... and relieved on the .....

Parole.	Lieutenant.	Sergeants.	Corporals.	Musicians.	Privates.	Total.	Aggregate.	Articles in Charge.									Received the foregoing articles.
Countersign.																	
Detail, ...																	

Lieutenant, ... Regiment.

List of the Guard.

Reliefs, and when posted.									Where Posted.	Remarks.
1st Relief. From ..... to ..... and ..... to				2d Relief. From ..... to ..... and ..... to			3d Relief. From ..... to ..... and ..... to				[This column will contain the remarks of the officer of the guard, such as: the time the guard was visited by the officer of the day; and an account of every material circumstance that has transpired during the tour.]
No.	Name.	Co.	R't.	Name.	Co.	R't.	Name.	Co.	R't.		

..... *Sergeant Guard.*

..... *Corporal Guard.*

..... *Corporal Guard.*

List of Prisoners.

No.	Names.	Company.	Regiment.	Confined.		Charges.	Sentences.	Remarks.
				When.	By whom.			
1								
2								
3								
4								
5								

.....

Lieut..... Regiment .....

Commanding the Guard.

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(No. 75.)

CERTIFICATE OF MEMBERSHIP AND OF PERFORMANCE OF DUTY IN A MILITARY COMPANY.

I hereby certify that ..... is a member of ..... Company, ... Regiment, National Guard State of New York, and holds the position of ..... in said company; that he is duly uniformed according to law, and duly performed military duty in said company on the ..... day of ....., 186.., which was the last time that he was required to perform such duty.

Dated at ....., 186..

.....

Captain Commanding ..... Company,

..... *Regiment N. G. S. N. Y.*

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(No. 76.)

ORDER FOR WARNING REGIMENTAL OFFICERS, &

See § 148.

HEAD-QUARTERS,..... REGIMENT N. G. S. N.

....., 186..

Special Orders, No. ....

In pursuance of the Military Code of the State of York,

You are hereby ordered to warn the Field and Officers and Regimental Band, also Commandants of panies, with their respective commands, to appear for pa fully armed and equipped according to law and regulat on the ..... day ..... line formed on ..... at .... o'clock in ..... noon, and you will make returns of your do herein to me.

.....,

Commandant of .....

To .....

Adjutant ..... *Regiment N. G. S. N.*

LION, BAT

York, of a

..... *da*

TORES, CAME

Spades. | Axes. | Axe helves.

o be

able i

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ON, BATTERY OR COMPANY.

rk, of all clothing, quartermaster's stores, camp and garrison equipage,
. . . . day of September, 186.. *and in pursuance of all the requirements*

RES, CAMP AND GARRISON EQUIPAGE.															ORDNANCE AND ORDNANCE STORES.										REMARKS.
Spades.	Axes.	Axe helves.	Camp kettles.	Camp colors.	Trumpets.	Wall tents.	Wall tent poles.	Common tents.	Iron pots.	Pickaxes.					Muskets.	Bayonets.	Cartouch boxes.	Swords and belts.	Brass ..... pounders.	Iron ..... pounders.	Cartridges.	Ammunition boxes.	Drag ropes.		

o be correct and true.

. . . . . September, A. D. 186. .

. . . . . .

and Commandant of . . . . . Regiment N. G. S. N. Y.

able in the discretion of a court-martial.

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